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August 1, 2016 HIGHLIGHTS

- The FCC issued the [agenda](#) for its August 4, 2016, Open Meeting. The FCC will consider: a Report and Order that would convert the National Deaf-Blind Equipment Distribution Program from a pilot to a permanent program; a Report and Order that would implement changes to the scope of the wireless hearing aid compatibility rules; and an Order on Reconsideration that would ensure the rates for Inmate Calling Services are just, reasonable, and fair.
- The FCC [concluded](#) the A-CAM model streamlined challenge process and made a final determination on the requests to change the broadband coverage data that will be incorporated into the final version of the model.
- Oppositions to petitions for reconsideration of the RoR USF Reform [Order](#) filed by [NTCA](#), [WTA](#), [Custer Telephone](#), and [Madison Telephone](#) [are due](#) August 15. Replies due August 25.
- PRA comments [are due](#) August 31 on a new collection associated with the RoR USF Reform [Order](#).
- Chairman Wheeler responded to [Sens. Charles E. Schumer](#) (D- N.Y.) and [Kirsten Gillibrand](#) (D- N.Y.) on the CAF Phase II competitive bidding process.
- NTCA [encouraged](#) the FCC to develop a clear implementation schedule that will enable all USF reforms to take effect at approximately the same time and provide sufficient information in advance of any implementation deadlines to help inform upcoming USF support elections.
- Shawnee Telephone and Moultrie Independent Telephone filed a [Petition for Waiver](#) of the decisions in the [RoR USF Reform Order](#) to exclude census blocks served by FTTP technology from the support calculations under the A-CAM, and not to make an offer of model-based support to any rate-of-return carrier that has deployed 10/1 broadband to 90 percent or more of its eligible locations.
- Commissioner O'Rielly posted a [blog](#) on the key elements he will use to review any reform of a mobile-only USF program, and said the \$500 million budget should be re-evaluated in light of the widespread deployment of 4G LTE.
- [Petitions for Rehearing](#) were filed in the D.C. Circuit Court of the [decision](#) denying all of the petitions for review of the 2015 Open Internet [Order](#).
- NTCA released its [annual broadband survey report](#), finding 100 percent of the respondents offer broadband to some part of their customer bases, and 85 percent of respondents' customers have access to service in excess of 10 Mbps, and 71 percent can subscribe to service of 25 Mbps or greater.
- [Oppositions and comments](#) were filed on [petitions for reconsideration](#) of the Lifeline Reform [Order](#).
- Nebraska Companies [asked](#) the Federal State Joint Board on Universal Service to move forward with a recommendation to the FCC to reform the universal service contribution methodology.

Other Key Upcoming Dates

- Aug. 9 - Replies due on the [FNPRM](#) on a new deregulatory framework for business data services that classifies markets as either non-competitive or competitive.
- Aug. 15 - Oppositions due to petitions for reconsideration of the RoR USF Reform [Order](#). Replies due August 25.

USF Reform

- The Wireline Competition Bureau issued an [Order](#) July 25, 2016, concluding the A-CAM model streamlined challenge process and making a final determination regarding the requests to change the broadband coverage data that will be incorporated into the final version of the model for purposes of the voluntary election of model-based support. The Bureau granted 80 requests and denied 73 requests, and declined to act on 124 requests that the Bureau said are administratively infeasible or unnecessary to make. The Bureau said it will shortly release the Public Notice summarizing offer amounts and associated deployment obligations, which will trigger the 90-day deadline for carriers to indicate their intent to elect model-based support.
- The FCC [published](#) in the Federal Register on July 29, 2016, the [Public Notice](#) announcing petitions for reconsideration of the RoR USF Reform Order have been filed by [NTCA](#), [WTA](#), [Custer Telephone Cooperative](#), and [Madison Telephone Company](#). Oppositions to the petitions are due August 15; replies due August 25.
- The FCC issued a [Notice](#) in the Federal Register on August 1, 2016, seeking Paperwork Reduction Act comments on a new collection associated with the March 2016 RoR USF Reform [Order](#). Among other things, carriers electing model-based support must notify the Commission of that election and their commitment to satisfy the specific service obligations associated with the amount of model support. PRA comments are due August 31.
- Chairman Wheeler sent letters to [Sens. Charles E. Schumer](#) (D- N.Y.) and [Kirsten Gillibrand](#) (D- N.Y.) on July 21, 2016, to respond to their letters urging the FCC to adopt rules for the CAF Phase II competitive bidding process that ensure an equitable allocation of funding for states such as New York.
- NTCA [met with](#) Chairman Wheeler's Legal Advisor and Carol Matthey, Deputy Chief of the Wireline Competition Bureau, on July 27, 2016, to encourage the FCC to develop a clear implementation schedule that will enable all reforms (model and non-model) to take effect at approximately the same time and to provide carriers with sufficient estimates, calculations, and other data in advance of any implementation deadlines to help inform upcoming USF support elections. NTCA reiterated that a top priority for its Petition for Reconsideration of the RoR USF Reform Order must be the management of USF budgets in the event of certain carriers electing, but then subsequently declining, model support. NTCA also urged the FCC to address several additional items presented in its Petition, such as clarification of the capital investment allowance.
- Shawnee Telephone and Moultrie Independent Telephone filed a [Petition for Waiver](#) on July 27, 2016, of the Commission's decisions in the [RoR USF Reform Order](#) to exclude census blocks served by fiber-to-the-premises technology from the support calculations under the Alternative Connect America Cost Model, and not to make an offer of model-based support to any rate-of-return carrier that has deployed 10/1 broadband to 90 percent or more of its eligible locations in the relevant state, based on the June 2015 FCC Form 477 data. Petitioners claimed the FTTP Rule produces dramatic and unsustainable reductions in Shawnee Telephone's model-based support, and said while Moultrie has not deployed FTTP technology, it currently serves more than 90 percent of its customer locations with 10/1 broadband, making it ineligible for an offer of model-based support.
- Commissioner O'Rielly posted a [blog](#) on July 25, 2016, discussing the key elements he will use to review any reform of a mobile-only USF program. He said it seems illogical to have a technology-specific fund when the wireless and wired worlds are merging, asserting they are substitutes rather than complements. He listed his key elements as: subsidize only one carrier; phase out current support; target populations, not roads; require providers to offer broadband; and address the Remote Areas Fund in conjunction with creating a Mobility Fund. He also said the \$500 million budget should be re-evaluated in light of the widespread deployment of 4G LTE.

- Union Telephone Company filed a [Petition](#) on July 29, 2016, seeking a limited waiver of Mobility Fund Phase I public interest obligations, and an extension of the requirement that carriers must submit drive test data within three years after receiving Phase I support.
- Viaero Wireless filed a [Petition](#) on July 29, 2016, seeking a waiver of provisions in the Commission's rules that would impose a performance default penalty and disqualify a wireless carrier from receiving support in the event it is unable to meet its minimum network coverage requirement or otherwise comply with Phase I public interest obligations.

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Open Internet

- Petitions for Rehearing were filed in the D.C. Circuit Court by [CTIA](#), [Alamo Broadband](#), [USTelecom and CenturyLink](#), [NCTA and ACA](#), [AT&T](#), and [Tech Freedom, et al.](#), of the [decision](#) denying all of the petitions for review of the March 2015 Open Internet [Report and Order on Remand, Declaratory Ruling and Order](#). [USTelecom and CenturyLink](#) claimed the panel's decision wrongly authorizes the FCC to expand its regulatory authority over the internet. [AT&T](#) asserted the panel separately erred in upholding the Order's underlying decision to reclassify broadband Internet access as a "telecommunications service" rather than an information service. [NCTA and ACA](#) claimed the decision violates the APA and circuit case law that required the FCC to give notice of key aspects of the order. [CTIA](#) said the FCC unlawfully reclassified mobile broadband service. [Alamo Broadband](#) asserted the panel erred by concluding that the First Amendment does not limit the FCC's authority to regulate the internet and by concluding that section 706 authorizes common carriage regulation of the internet. [Tech Freedom, et al.](#) claimed the panel's decision runs squarely contrary to Supreme Court precedent. Chairman Wheeler issued a [statement](#) on the rehearing requests.

Broadband

- Chairman Wheeler sent a [letter](#) to Sen. Jeff Flake (R- Ariz.) on July 19 2016, on the Wireline Competition Bureau's decision to extend the reply period on the FCC's Broadband Privacy NPRM to July 7, 2016. Chairman Wheeler said the Commission's rules and policies allow for flexibility to respond to changing circumstances, and said as the record continued to develop, the Bureau determined that providing additional time for reply comments would allow interested parties an opportunity to more fully respond to the voluminous record in this proceeding.
- AT&T [met with](#) Wireline Competition Bureau on July 26, 2016, to discuss the FCC's broadband privacy proceeding. AT&T asserted that any rules adopted should require providers to ensure the reasonable security of customer data, as suggested by the FTC staff and similar to the requirement of the current CPNI rules. AT&T also asserted any breach reporting requirements should be limited to breaches of genuinely sensitive information that are likely to harm customers, and claimed that a number of the proposed or suggested reporting requirements do not meet those criteria and would also likely lead to excessive noticing that would not be helpful to customers.
- Public Knowledge [met with](#) Wireless Competition Bureau staff on July 22, 2016, to discuss the FCC's proposed rules on privacy of broadband customers' personal information. PK asserted anonymization would still convey a windfall to the carrier at the expense of consumer control of the information in a way that Congress did not intend. PK also claimed it is difficult for carriers to distinguish between sensitive and non-sensitive without actually looking at and assessing the information to make that distinction. PK said as a legal matter, a [2007 Commission order](#) stated personally identifiable information is CPNI, and PK asserted the Commission cannot ignore its previous determination.
- NTCA released its 15th [annual broadband survey report](#) on July 28, 2016. The survey found 100 percent of the 2015 survey respondents offer broadband to some part of their customer bases, compared with the 58 percent of the 2000 survey respondents. Also, 49 percent of respondents'

broadband customers are served via FTTH, 29 percent via copper loops, 15 percent cable modem, 6 percent FTTN, 1 percent licensed and unlicensed fixed wireless, and 0.1 percent satellite. Also, 85 percent of respondents' customers have access to service in excess of 10 Mbps, and 71 percent can subscribe to service of 25 Mbps or greater.

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IP Transition

- The Wireline Competition Bureau issued an [Order](#) on July 29, 2016, granting Alaska Communications' request for waiver of section 51.332 in order to permit Alaska Communications to retire certain copper loop plant in fewer than 180 days after the Commission's public notice of the proposed network changes. The Bureau said grant of the waiver request is premised on Alaska Communications' assertion that it has worked closely with the only customer directly affected by the planned changes, GCI, to ensure a smooth transition with no loss of service to GCI or any of its customers, and on the absence of any comments in the record in opposition to Alaska Communications' waiver request.

USF

- Oppositions and comments were filed on July 29, 2016, to [petitions for reconsideration](#) of the Lifeline Reform [Order](#). [NASUCA](#) opposed certain parts of petitions filed by USTelecom, CTIA, and the Joint Lifeline ETCs, and stated implementation of the broadband Lifeline program should not be delayed until December 2017, and high-cost providers should not be excused from broadband Lifeline obligations. [NCTA](#) opposed the Pa. PUC's petition to the extent it asks the FCC to allow states to impose operational requirements on federally-designated Lifeline Broadband Providers. [Sprint](#) supported reconsideration of three aspects of the Lifeline Order: the average usage formula to be used to determine minimum mobile broadband usage allotments for 2019 and beyond; the halving of the inactivity period which leads to de-enrollment; and the rolling recertification rule. [Q Link Wireless](#) supported the Joint Lifeline ETCs' request insofar as it seeks clarification or reconsideration that ETCs meet broadband minimum service standards when they offer a service plan that permits the customer to utilize the service for the full amount of the minimum standalone voice or broadband service requirement. [TracFone](#) said the FCC should not eliminate or reduce Lifeline support for standalone voice service. Replies are due August 8. [Notice](#)
- Great Plains Communications, Consolidated Companies, Reynolds Schultheis Consulting, and Cheryl L. Parrino, on behalf of the Nebraska Rural Independent Companies, [met with](#) Commissioner Rosenworcel and her Legal Advisor, and [with](#) Commissioner Nelson of the South Dakota PUC and Commissioner Brisé of the Florida PSC on July 24-25, 2016, to urge the Federal State Joint Board on Universal Service to move forward with a recommendation to the FCC to reform the universal service contribution methodology. They provided a summary of the method that NRIC is proposing in the Nebraska state proceeding and urged Commissioner Rosenworcel and the state commissioners to consider a similar approach to reform the federal contribution methodology.

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Misc.

- The FCC issued the [agenda](#) on July 28, 2016, for its August 4, 2016, Open Meeting. The FCC will consider: a Report and Order that would convert the National Deaf-Blind Equipment Distribution Program from a pilot to a permanent program; a Report and Order that would implement changes to the scope of the wireless hearing aid compatibility rules; and an Order on Reconsideration that would ensure the rates for Inmate Calling Services are just, reasonable, and fair and explicitly account for facilities' ICS-related costs. The FCC will also consider three items as a consent agenda.

- Commissioner O’Rielly issued a [statement](#) on July 27, 2016, saying he is pleased the Chairman has initiated a proceeding under section 11 of the Act to review the FCC’s telecommunications regulations. He asked that the FCC shorten the internal review from four months to two, and said it should not take individual Bureaus and Offices more than eight weeks to thoroughly examine rules under their purview and to recommend candidates for elimination.
- The FCC released a [statement](#) from Chairman Wheeler on July 25, 2016, applauding AT&T for committing to make robocall-blocking technology available to its customers. He said he is gratified that AT&T will lead an industry strike force to develop an action plan for providing consumers with robust robocall-blocking solutions, and strongly urged industry participants to join the effort and to produce conclusions within 60 days.
- Randall Stephenson, Chairman of AT&T, sent [a letter](#) to Chairman Wheeler on July 25, 2016, responding to the Chairman’s [letter](#) that called on carriers to offer robocall call-blocking services to their customers now, at no cost to the customer. AT&T said while it currently allows many of its customers to block calls using black-listing software like Nomorobo, call blocking alone will not address the problem. Stephenson offered to chair a new Robocalling Strike Force, the mission of which would be to accelerate the development and adoption of new tools and solutions to abate the proliferation of robocalls and to make recommendations to the FCC on the role government can play in this battle.
- The FCC issued an [Order](#) on July 25, 2016, approving the recommendation of the North American Numbering Council that Telcordia Technologies, d/b/a iconectiv, serve as the next Local Number Portability Administrator. The FCC found, among other things, that the North American Portability Management consortium has successfully negotiated a proposed contract with Telcordia, the terms of which are consistent with the LNPA Selection Order and the Commission’s requirements regarding neutrality and security matters. It said once the contract with the NAPM is executed and a transition from Neustar is complete, Telcordia will serve as the LNPA for an initial term of five years. [News Release](#)
- The FCC issued an [Order](#) on July 25, 2016, dismissing Neustar’s Application for Review, which sought reversal of the Wireline Competition Bureau’s Second Protective Order in the LNP Administrator transition proceeding. The FCC dismissed the AFR on procedural grounds, and, in the alternative and as a separate and distinct ground, denied Neustar’s substantive arguments on the merits. The FCC said Neustar must exhaust its administrative remedies at the Bureau level before seeking Commission review, and said Neustar should have pursued relief with the Bureau following the standard procedures set forth in the Second Protective Order.
- North American Portability Management filed a [letter](#) on July 27, 2016, to provide an update on the LNP Administrator transition. NAPM detailed the recent accomplishments of the Transition Oversight Manager, including: confirming the June deliveries of NPAC data from the current LNPA to the incoming LNPA for development and testing of the new NPAC system; updating the contingency rollback governance process to address NAPM feedback; and conducting the Transition Outreach and Education Plan webcast on June 21, 2016, among other things.
- The Wireline Competition Bureau issued a [Public Notice](#) on July 25, 2016, submitting into the record additional peer review materials in the business data services proceeding. The new material includes supplemental responses from the peer reviewers, along with letters from the Commission inviting additional review.
- The Wireline Competition Bureau issued a [Public Notice](#) on July 25, 2016, listing Acknowledgements of Confidentiality filed by parties seeking access to confidential information filed in the special access data collection proceeding since the July 22, 2016 Public Notice. Parties that submitted confidential information in response to the collection have until August 1, 2016, to object to the disclosure of their data and information to any of the parties listed in the attachment to this Public Notice.
- The Wireline Competition Bureau issued a [Public Notice](#) on July 29, 2016, listing Acknowledgements of Confidentiality filed by parties seeking access to confidential information filed in the special access

data collection proceeding since the July 25, 2016 Public Notice. Parties that submitted confidential information in response to the collection have until August 5, 2016, to object to the disclosure of their data and information to any of the parties listed in the attachment to this Public Notice.

- Jay Inslee, Governor of the state of Washington, sent a [letter](#) to Chairman Wheeler on July 29, 2016, to emphasize the importance of ensuring that the final rules in the Business Data Services FNPRM are based on accurate industry data and promote strong continued investment in broadband infrastructure. He said he shares the concerns of the [Washington UTC](#) who said the Commission should use all the available data to both measure competitive markets accurately and ensure that potential regulations in less competitive markets properly reflect marketplace conditions.
- Windstream [spoke with](#) Chairman Wheeler, and Wireline Competition Bureau and General Counsel staff on July 20, 21 and 25, 2016, to assert that Commission action is necessary to preserve non-incumbent options for business communications solutions and to promote competitive fiber and IP investments. Windstream also asserted the Commission can and should take immediate action to reduce excessive charges for packet-based wholesale access and simultaneously should advance efforts to establish more comprehensive reforms.
- The American Cable Association [met with](#) Commissioner Clyburn and her Legal Advisor on July 24, 2016, to discuss business data services and other issues. ACA urged the FCC to continue the FCC's traditional light touch approach to regulating competitive providers, and asserted any effort to regulate BDS rates of cable providers would create significant disincentives for them to invest and expand their market presence, and claimed that smaller providers in particular would find it unreasonably costly to comply with rate regulation. ACA also discussed the FCC's proposal to require multichannel video programming distributors to make their services available to third-party set-top box manufacturers.
- Level 3 [spoke with](#) Matt DeInero, Chief of the Wireline Competition Bureau, on July 21, 2016, to discuss the role of price caps and tariffs in the reform of Business Data Services regulation. Level 3 asserted a regulatory regime for Business Data Services is far more likely to be effective if it includes price caps and tariffs, and said these existing mechanisms are the only reliable means available to the Commission right now of constraining the exercise of market power by leading competitors in non-competitive areas. Level 3 claimed at the very least, the Commission should utilize these mechanisms for regulating both packet-based dedicated services and circuit-based dedicated services in non-competitive areas while it explores other options for the long term.
- Level 3 [met with](#) Chairman Wheeler's Legal Advisors on July 26, 2016, to discuss points made in its [recent ex parte](#) on the role of price caps and tariffs in the reform of business data services regulation. Level 3 asserted that while it remains open to the possibility of using a benchmark-based framework to regulate packet-based dedicated services if an effective framework can be devised, a regulatory regime for business data services is more likely to be effective if it includes price caps and tariffs for PBDS as well as for circuit-based dedicated services.
- Level 3 [met with](#) Wireline Competition Bureau staff on July 25, 2016, to assert the FCC should adopt further rules governing ILEC business data services. Level 3 claimed the FCC should prohibit ILECs from setting the terms of circuit-specific plans in non-competitive areas at longer than two years. Level 3 also asserted the Commission should prohibit ILECs from tying the sale of business data services in non-competitive markets to the sale of other products.
- INCOMPAS filed a [letter](#) on July 28, 2016, attaching a report it commissioned entitled "Welfare Effects of Reductions in the Price of Leased Line Equivalents in the U.S.," prepared by WIK-Consult. INCOMPAS claimed the report demonstrates that regulatory reductions in prices for business data services would result in a reduction in deadweight loss.
- INCOMPAS [spoke with](#) the Wireline Competition Bureau Chief on July 26, 2016, to assert that the [framework](#) submitted by INCOMPAS and Verizon is a balanced approach, is supported by the record, and said it should be adopted by the Commission.

- TelePacific Communications [spoke with](#) Wireline Competition Bureau staff on July 21, 2016, to discuss the [Order](#) suspending proposed tariff revisions of PacBell and Southwestern Bell. TelePacific asserted the Commission's findings concerning "the purchaser," "a customer" and "the agreement" refer to a specific customer's TPP agreement with PacBell, not an "average" PacBell customer or PacBell's average circuit revenue. It also asserted any shortfall or early termination penalty based on a term rate that is higher than the rate a specific customer pays, or that includes mileage or multiplexing, would not comply with the Commission's limits on expectation damages.
- Granite Telecommunications and INCOMPAS [met with](#) Wireline Competition Bureau staff on July 21, 2016, to discuss their concerns with linking the reasonably comparable wholesale access requirement for wholesale voice platform services established in the Technology Transitions Order to the issuance of final rules in the special access/business data services proceeding. They asserted that the expiration of the wholesale voice platform condition should not be tied to the completion of the business data services proceeding, but instead should continue until such time as the Commission analyzes the relevant market for multi-location business voice services and determines the appropriate treatment of incumbent market power in that market.
- The Consumer & Governmental Affairs Bureau issued an [Order](#) on July 25, 2016, terminating as dormant the proceedings listed on the Attachment to the Order. It left open the following two proceedings: Docket No. 87-24, Amendment of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadcast Industries; and RM-10335, Amendment of the Commission's Rules to Extend Its Network and Non-Network Territorial Exclusivity, Syndicated Exclusivity, and Network Non-Duplication Protection Rules. The Bureau said further action in these two proceedings may be required.
- The FCC issued a [Public Notice](#) on July 25, 2016, announcing that due to a building power outage, the FCC headquarters closed early on Friday, July 22, 2016, and all paper and electronic filings that were due on July 22 were due on Monday, July 25, 2016, the Commission's next official business day. It indicated July 22 does not count in computing filing periods fewer than seven days since it was a Commission holiday under rule 1.4(g).

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Upcoming Filing Dates

- Aug. 5 - Replies due on [three sets of issues](#) relating to the process for determining winning bidders in the CAF Phase II auction: how to apply weights to the different levels of performance adopted in the Order; measures to achieve the public interest objective of ensuring appropriate support for all of the states; and measures to achieve the public interest objective of expanding broadband on Tribal lands.
- Aug. 8 - Comments due on Fairpoint's [Compliance Plan](#) for forbearance relief from the Commission's cost assignment rules. Replies due August 22. [Public Notice](#)
- Aug. 8 - Replies due to oppositions to petitions for reconsideration of the Lifeline Reform [Order](#) filed by [NTCA and WTA](#), the [Joint Lifeline ETC Petitioners](#), [GCI](#), [Pennsylvania PUC](#), [TracFone](#), and [NASUCA](#). [Notice](#)
- Aug 9 - Replies due on the [FNPRM](#) proposing a new competition-triggered deregulatory framework for the provision of business data services that classifies markets as either non-competitive or competitive.
- Aug. 15 - Oppositions due to petitions for reconsideration of the RoR USF Reform Order filed by [NTCA](#), [WTA](#), [Custer Telephone Cooperative](#), and [Madison Telephone Company](#). Replies due August 25. [Notice](#)

- Aug. 22 - PRA comments due on the form and content of its survey of urban rates for fixed voice and fixed broadband residential services. [Notice](#)
- Aug. 22 - Replies due on Fairpoint's [Compliance Plan](#) for forbearance relief from the Commission's cost assignment rules. [Public Notice](#)
- Aug. 24 - PRA comments due on revisions of a currently approved collection to comply with new rules adopted in the Lifeline Third Reform [Order](#). [Notice](#)
- Aug. 24 - PRA comments due on revisions of currently approved collections associated with Part 61, Tariffs. [Notice](#)
- Aug. 24 - PRA comments due on an extension of a currently approved collection associated with local number portability. [Notice](#)
- Aug. 25 - Replies due to oppositions to petitions for reconsideration of the RoR USF Reform Order filed by [NTCA](#), [WTA](#), [Custer Telephone Cooperative](#), and [Madison Telephone Company](#). [Notice](#)
- Aug. 31- PRA comments are due on a new collection associated with the March 2016 RoR USF Reform [Order](#). [Notice](#)

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