

JACQUELINE (“JACKIE”) R. McHUGH

Partner

PROFESSIONAL BIO

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In practice for nearly 15 years, Ms. McHugh (formerly, Neff) is Partner at the firm, counseling clients on a variety of regulatory, tax and transactional matters. Ms. McHugh is also an experienced litigator and a member of the firm’s Litigation team, focusing her litigation skills on complex civil and administrative matters. Ms. McHugh advises a wide range of companies, including VoIP service providers, competitive carriers, UCaaS/unified communications services providers, software/SaaS providers, systems integrators, technology and application service providers and developers, wireless/MVNOs, Internet access, satellite, and prepaid providers, among others.

Ms. McHugh’s commercial law practice involves extensive work analyzing carrier contracts, advising clients on the interpretation of those contracts and the negotiation of those contracts with carriers around the world. Ms. McHugh has engaged in negotiations with carriers based in the UK, South Africa, Germany, France, and India, among others.

In her regulatory/tax practice, Ms. McHugh counsels clients regarding the regulatory and tax treatment of:

- Electronic commerce, cloud computing/Software as a Service (SaaS), Communications as a Service (CaaS), Unified Communications as a Service (UCaaS) and mobile apps
- Advanced communications services and technologies (including I-VoIP & non-interconnected VoIP)
- Wireless services (voice, data & SMS)
- Satellite communications
- Prepaid calling cards, PINless calling & international services
- Systems integrators and other service delivery and distribution channels
- Money services/transfer businesses
- Competitive long distance and local services (& other legacy offerings)
- New and developing technologies

Moreover, Ms. McHugh defends clients in investigations and audits by the FCC’s Enforcement Bureau and the Universal Service Administrative Company (USAC) and advises clients on ensuring compliance with federal and state laws, including the FCC’s CPNI rules, E911 regulations and universal service program contribution requirements. Ms. McHugh also assists clients with the drafting and negotiation of a wide variety of commercial agreements. In addition, Ms. McHugh counsels clients on the taxation and regulation of advanced communications services, including cloud-based and IP-enabled services.

As a litigator, Ms. McHugh has represented clients in state and federal courts, and before state and federal tribunals in administrative matters. Ms. McHugh's litigation experience includes arguing for clients before the U.S. Court of Appeals for the District of Columbia Circuit and the U.S. Court of Federal Claims.

Representative Experience

- Aiding clients with compliance with federal, state and local communications and regulatory taxes and fees including sales, use, excise and transaction taxes, 911/E911 fees, and other "tax-like" regulatory fees applicable to communications services and products
- Representing clients in litigation matters before federal and state courts and tribunals
- Assisting with client representation before the FCC, including filing and defending against informal complaints
- Counseling clients on the federal USF and application of the Carrier's Carrier Rule and state USF rules
- Representing companies in the acquisition process, including handling due diligence and exposure analyses
- Defending clients in USAC audits and FCC Enforcement Bureau proceedings
- Developing and advising clients on regulatory and tax implications of various service distribution models, including "carrier of record"
- Representing clients in state public utility commission complaints and related matters
- Drafting comments and petitions for filing with the FCC in rulemaking proceedings
- Negotiating with the FCC to secure settlements for clients in Notice of Apparent Liability ("NAL") proceedings
- Advising clients regarding federal anti-money laundering rules, unclaimed property, and escheat laws as applied to prepaid providers
- Reviewing and advising clients regarding prepaid calling card disclosures and consumer protection obligations
- Conducting comprehensive regulatory audits of services offered and advising clients regarding regulatory classification and implications
- Conducting "pre-audits" and advising clients regarding potential USF exposures
- Drafting and amending contracts and commercial agreements and advising clients on structuring new business enterprises
- Developing comprehensive TCPA and CAN-SPAM compliant privacy policies including website disclosures, third-party non-disclosure and non-compete agreements addressing the protection of confidential information, and CPNI manuals
- Advising clients with regard to state and federal telemarketing restrictions and responding to complaints
- Assisting in client advocacy initiatives before the FCC, including drafting petitions for the Ad Hoc Coalition of International Telecommunications Companies

Publications

Ms. McHugh co-authored multiple law review articles pertaining to the FCC, USAC and the Universal Service Fund:

"Confusion, Uncertainty, and Fear: How the FCC's Increased Reliance on Adjudication Is Harming Carriers, Competition, Consumers, and Investment," *Federal Communications Law Journal*, Volume 68, Issue 2, August 2016

"Mis-Administration and Misadventures of the Universal Service Fund: A Case Study in the Importance of the Administrative Procedure Act to Government Agency Rulemaking," *CommLaw Conspectus, Journal of Communications Law and Policy*, Volume 20, Issue 1, June 2011.

Ms. McHugh served as Managing Editor for the prestigious *Journal of Law, Economics & Policy* at George Mason University School of Law.

Education

Ms. McHugh joined the firm after graduating from the George Mason University School of Law. Ms. McHugh's legal education focused on communications and business law.

Admissions

Ms. McHugh is admitted to practice in Virginia, and before the United States Courts of Appeals for the District of Columbia and Federal Circuits.