

CenturyLink Accepts Nearly \$506 Million in Annual Support from Connect America Fund to Expand and Support Broadband for Over 2.3 Million Consumers in 33 States

WASHINGTON, August 27, 2015 – CenturyLink, Inc. has accepted \$505,703,762 in annual, ongoing support from the Connect America Fund to expand and support broadband for over 2.3 million of its rural customers.

The Connect America Fund support will enable CenturyLink to deliver broadband at speeds of at least 10 Mbps for downloads and 1 Mbps uploads to nearly 1.2 million homes and businesses in its rural service areas where the cost of broadband deployment might otherwise be prohibitive.

“CenturyLink’s acceptance of over one-half billion dollars from the Connect America Fund represents a huge investment in broadband for its rural customers,” said FCC Chairman Tom Wheeler. “This is the largest amount accepted by any company to date – and the opportunities that modern broadband will provide for the rural communities CenturyLink serves are priceless.”

Below is the amount of annual support provided by the offer and number of homes and businesses served by state:

State	Number of homes and businesses reached	Amount of Support by State (in dollars)
CenturyLink Total	1,174,142	\$505,702,762
AL	48,865	\$17,290,009
AR	45,708	\$19,761,508
AZ	23,758	\$10,089,092
CO	53,139	\$26,509,143
FL	32,273	\$10,916,671
GA	777	\$269,719
IA	34,827	\$17,893,887
ID	12,367	\$6,279,869
IL	3,651	\$2,093,982
IN	30,052	\$10,736,352
KS	29,018	\$16,501,327
LA	24,324	\$9,471,015
MI	25,230	\$9,028,031
MN	114,739	\$54,035,150
MO	158,311	\$77,850,608
MT	33,638	\$15,195,628
NC	36,159	\$10,008,390

ND	8,044	\$5,656,741
NE	10,899	\$6,888,416
NJ	1,881	\$450,340
NM	25,308	\$10,942,747
NV	2,265	\$1,072,346
OH	47,707	\$15,982,805
OR	41,785	\$17,759,903
PA	30,297	\$10,562,353
SC	8,551	\$2,952,228
SD	15,071	\$9,117,215
TN	5,791	\$1,662,828
TX	27,184	\$11,300,418
UT	4,366	\$1,894,801
VA	49,993	\$15,731,765
WA	58,961	\$24,412,884
WI	129,203	\$55,384,589

Like telephone service in the 20th Century, broadband has become essential to life in the 21st Century. But, according to the FCC's latest Broadband Progress Report, nearly one in three rural Americans lack access to 10/1 broadband, compared to only one in 100 urban Americans. The Connect America Fund is designed to close that rural-urban digital divide.

The FCC's traditional universal service program succeeded in ensuring telephone network coverage in rural America by providing subsidies where the cost of service would otherwise be prohibitive. In late 2011, the FCC modernized the program to support networks capable of providing broadband and voice services, and created the Connect America Fund to efficiently and effectively administer that support to expand broadband in rural areas where market forces alone can't support expansion.

Over the next six years, Phase II of Connect America will provide more than \$10 billion to expand broadband-capable networks throughout rural America nationwide, all without increasing the cost of the program to ratepayers. Overall, the FCC's Universal Service Fund allocates \$4.5 billion annually through various universal service programs for high-cost areas to support voice- and broadband-capable networks in rural America.

Carriers receiving Connect America Fund support must build out broadband to 40 percent of funded locations by the end 2017, 60 percent by the end of 2018, 80 percent by the end of 2019, and 100 percent by the end of 2020.

ISP Friends in High (Court) Places

Provider Allies Line Up to Back Title II Challenge 8/10/2015 8:00 AM

Eastern

By: [John Eggerton](#)

TakeAway

Opponents of Title II-based network neutrality rules lined up to file briefs in support of ISP efforts to overturn them.

WASHINGTON — In legal terms, you know who your friends are on the day that amicus briefs are due. For supporters of Internet-service providers' challenge to the Federal Communications Commission's reclassification of Internet access as a Title II common-carrier service, that date was last Thursday (Aug. 6).

It turns out that those ISPs, who filed their opening brief with the U.S. Court of Appeals for the D.C. Circuit on July 30, have a lot of friends who wanted to tell the court where it ought to go in terms of vacating the FCC's rules, and alternately where the agency had gone wrong in producing them.

Here are some of the highlights:

- “The FCC’s order is an example of a bungling regulator achieving exactly the opposite effect from the one it set out to cause by failing to understand the subject matter. The Internet is capable of being much, much more than it has ever been, but the FCC’s ham-fisted regulatory model will actually cause it to be much less than it is today.” — *Richard Bennett, founder and publisher, High Tech Forum, and a visiting fellow at the American Enterprise Institute*
- “The FCC simply ignores fundamental economic principles, including the role of competition in policing ISP behavior ... ignored the benefits of 20 years of Congressional and FCC ‘light-touch’ regulation of the Internet ... [and] dismissed the very real threats to innovation, investment and output from

Title II regulation.” — *Economists with the Georgetown Center for Business and Public Policy*

- “[I]f granting the FCC greater authority to regulate Internet access is the wisest policy decision, then it is the role of Congress to enact such legislation. The FCC does not have the authority to unilaterally expand its jurisdiction through a drastic reinterpretation of the statute, and the courts cannot sit idly by as the FCC embarks on a multiyear voyage of discovery. — *TechFreedom, a nonprofit think tank supporting Internet-freedom issues, on behalf of a group of Internet entrepreneurs and voiceover- Internet protocol pioneers*

The FCC gets to file its opening brief in defense of the order Sept. 14. Its amici (friends) get to weigh in on Sept. 21.

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- See more at: <http://www.multichannel.com/isp-friends-high-court-places/392852#sthash.hGZUdfjg.dpuf>

Multichannel News

Internet Firms Pound FCC in 'Title' Fight

Cable, Telco Providers Say Vague Standard Will Crimp

Investment8/10/2015 8:00 AM Eastern

By: **John Eggerton**

TakeAway

A court challenge by cable ISPs based on wariness over Title II could leave the FCC's "bright-line" network-neutrality rules unenforceable.

WASHINGTON — Cable and telco Internet-service providers have ripped into the Federal Communications Commission in their opening brief to a federal court challenging the agency's Title II-based network-neutrality order, an attack that could leave new Internet neutrality rules in limbo once again if the court agrees.

The National Cable & Telecommunications Association continues to say it isn't opposed to the FCC's bright-line rules against blocking, throttling and paid prioritization of Internet content. It has even said cable providers are OK with Congress legislating those bright-line rules, as long as it excludes justifying them under Title II of the Communications Act from the equation. Talks on Capitol Hill are ongoing, said an aide to one top Democratic senator involved.

But, as network-neutrality supporters had warned, that support for the underlying rules appeared a distinction with little difference when it comes to their status, given that the NCTA, the American Cable Association and other ISP backers took aim at the order in the U.S. Court of Appeals for the D.C. Circuit and said it must be set aside. That would leave the bright-line rules unenforceable, just as the FCC's 2010 rules were mooted by a decision by the same court until the regulator's new rules went into effect June 12.

NO CERTAINTY

The NCTA et. al. laid into the commission for the “knowit- when-we-see-it approach” to potential net-neutrality violations, as embodied by the vague general Internet conduct standard.

Even FCC chairman Tom Wheeler conceded in the post net-neutrality vote press conference, finger quoting the word “unreasonable,” that he “didn’t know” just what that would entail. He said getting the “just and reasonable” oversight authority of the Internet was why it became important to pivot toward Title II for new Internet rules. He said the bright-line rules were pretty easy to define — no blocking, or throttling or paid prioritization — but that “we don’t know where things go next.”

Not knowing where the FCC will go next is what really worried cable operators, and that’s why they have argued that the rules don’t provide the regulatory certainty that the chairman has advertised.

Wheeler has said the FCC will be the referee ready to throw the flag. But cable operators and telcos have argued that they could be penalized for infractions the FCC has never identified.

ISPs had a host of issues with the new rules, including how they were arrived at, the Obama administration’s influence and how much notice the public got to comment on the pivot to Title II.

A key issue for those ISPs was the regulatory gray areas they said the FCC had created, and the difficulty in knowing how they might be filled.

That is the uncertainty that could discourage investment and innovation, they argued.

The ISPs borrowed from the FCC’s court smack-down over “unconstitutionally vague” indecency regulations, saying the Internet conduct standard must be jettisoned because “it “fails to provide a person of ordinary intelligence fair notice of what is prohibited” and “is so standardless that it authorizes or

encourages seriously discriminatory enforcement.” Those are quotes taken directly from the U.S. Supreme Court’s 2012 rejection of the FCC’s indecency enforcement policy.

Ultimately it is not the devil ISPs know, but the ones the FCC may conjure up, that could frighten away investment and slow the broadband buildouts the regulator has been so focused on promoting.

INTERPRETING ‘UNREASONABLE’

The conduct standard says ISPs can’t “unreasonably interfere with or unreasonably disadvantage” access to Internet content. It will be up to the FCC’s enforcement bureau and three commissioners to interpret what those terms mean.

Such terms, MSOs and telcos told the court, provide “no principle for determining” when they have passed from the “safe harbor of the permitted” to the “forbidden sea of the prohibited.”

ISPs will be making their case against Title II on Dec. 4 after the court last week set that as the date for oral argument. The court has yet to decide how much time each side will have for that argument and which judges will hear the challenge.

- See more at: <http://www.multichannel.com/news/technology/internet-firms-pound-fcc-title-fight/392866#sthash.0AOVXR2U.dpuf>

Multichannel News

Retrans Review Revs Up

FCC To Examine Over-The-Top, Blackouts, More 8/17/2015 8:00 AM

Eastern

By: John Eggerton

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TakeAway

Broadcasters and cable MSOs have already started to get their licks in as the FCC launches its review of “good-faith” retrans negotiations.

WASHINGTON — Federal Communications Commission chairman Tom Wheeler has launched the congressionally mandated review of the retransmission- consent regime, specifically looking at how to define good-faith negotiations between cable operators and broadcasters.

There is already a list of per se violations, but the FCC also is allowed to look at the “totality of circumstances” for things beyond those objective criteria that could translate to not negotiating in good faith. Issues under consideration include blackouts, program pricing (bundling) and access to TV-station programming online.

ANOTHER WAY

Arguably, Wheeler has tipped his hand about the need to take action to reduce retransmission impasses. While the good-faith review will take months, the chairman circulated an order that could eliminate the broadcast exclusivity rules.

The main groups fighting the retransmission PR wars have been the American Television Association for the cable side and TVfreedom in the broadcasters’ corner.

The rhetoric got even more heated with the FCC's approaching Sept. 4 deadline for launching the review, but the basic issue remains the same: Broadcasters say they are just making up for lost time in finally negotiating closer to full value for their TV signals, while cable operators say broadcasters are using their government-aided must-carry and retransmission-consent leverage to raise prices that are ultimately passed on to consumers.

In a letter to the FCC, ATVA member Cablevision Systems called for big changes. For one, the cable operator asked the FCC to free subscribers from the must-buy tier requirement in systems with effective competition.

“The commission should ask how it could plausibly serve the public interest to require Spanish-language households to purchase English-language broadcast channels as a condition of purchasing Spanish-language programming,” Cablevision said.

In addition to prohibiting tier-placement requirements, Cablevision wants the FCC to prohibit retransmission negotiations that tie stations to affiliated cable programming networks. And it wants the agency to enforce those on existing contracts, finding any such current terms to be per se violations of good faith.

The National Association of Broadcasters told the commission that retransmission-consent fees are not even close to a leading factor in the cost of consumer bills, let alone programming costs.

It said if the FCC wants to look at the “totality of circumstances” related to retrans negotiations, it should focus on pay TV problems, which it said included, but were not limited to, “dismal customer service, overcharging consumers, sky-high equipment fees and questionable billing practices.” Billing practices in other realms have also been an issue on Wheeler's radar.

Mediacom Communications senior vice president Joseph Young — Mediacom is also a member of ATVA — borrowed from a broadcast-TV staple to stick it to the other side in his own letter to the commission.

“In an episode of the original *Star Trek* TV series, Mr. Spock remarked that ‘nowhere am I so desperately needed as among a shipload of illogical humans,’” Young wrote. “Nowhere, that is, except in a room full of broadcast-industry lobbyists relying on assorted logical fallacies to defend the status quo for retransmission consent.”

TVfreedom spokesman Robert Kenny provided *Multichannel News* with the broadcaster case. “A fair and balanced approach regarding future programming disputes requires that the FCC scrutinize pay TV providers that manufacture TV blackouts that, in effect, disrupt customers’ access to valued broadcast TV content,” Kenny said.

GETTING LOBBYING LICKS IN

Cable operators and broadcasters have beaten a path to the FCC’s door recently to put in their two cents before the FCC adds its voice to the debate — not that it is under a congressional mandate to take any specific action, only to review its definition of good faith.

The review was added to the STELAR bill when it became clear that the legislation would not pass with a major retransmission remake baked into it.

But major retrans reform could be in the offing at the FCC if the chairman concludes it would serve consumer interests, particularly if he decides to use the review to address issues like over-the-top access, cable pricing or channel bundling, all of which Wheeler is on the record as having concerns about.

- See more at: <http://www.multichannel.com/retrans-review-revs/393002#sthash.xuTMYh0b.dpuf>

Multichannel News

Wheeler Moves to Strike Exclusivity Rules

8/17/2015 8:00 AM Eastern

By: **John Eggerton**

WASHINGTON — After years of requests that the Federal Communications Commission eliminate broadcast-exclusivity rules that prevented cable operators from negotiating with out-of-market stations during retransmission-consent impasses, chairman Tom Wheeler has delivered the good news.

Wheeler was no fan of the so-called syndex rules as head of the National Cable & Telecommunications Association from 1979 to 1984. He called them outdated and proposed letting the marketplace decide what exclusivity broadcasters are able to negotiate.

The epitaph for the rules might have started to be written a year ago next month, when the FCC voted to scrap the sports blackout rules, which had backstopped another form of exclusivity to take the government out of the blackout-abetting business.

At the time, there was some speculation that the elimination of those rules was a signal the FCC might go the same route with syndex and network nonduplication.

Broadcasters opined earlier this year in comments on the definition of over-the-top providers that the FCC was silent about how it would be applying the exclusivity rules to OTT providers it was planning to reclassify as multichannel video programming distributors (MVPDs). Apparently, that was because the plan was not to apply them to any MVPDs.

Broadcasters have fought just as hard to preserve the rules, saying they are at the heart of localism, while cable operators have said they are an unnecessary thumb on the scale for broadcasters in program negotiations.

Wheeler seemed clearly in the cable camp in blogging about the order. He even invoked the blackout rules as precedent.

The item, which was circulated to the other commissioners last Wednesday (Aug. 12), dovetails with another just-circulated item launching the FCC's review of good-faith retrans negotiations.

The FCC had initially raised the specter of excising the network nonduplication and syndex rules under former chairman Julius Genachowski. The FCC under Wheeler then proposed getting rid of them in a further notice of proposed rulemaking attached to a report and order on retrans in March 2014. The item being circulated is responsive to that further notice.

- See more at: <http://www.multichannel.com/wheeler-moves-strike-exclusivity-rules/393003#sthash.dBwjbOa2.dpuf>

Multichannel News

Eat or Be Eaten

Consolidation Creates a Top-Heavy List of 25 Largest

MVPDs 8/17/2015 8:00 AM Eastern

By: **Mike Farrell**

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TakeAway

Consolidation has created a wide disparity between the top and bottom of the list of Top 25 pay TV providers.

The cable universe is shrinking.

Consolidation, competition and new viewing habits are irrevocably changing the pay TV landscape, with more contraction expected as larger deals close and smaller cable systems are snapped up by their larger peers.

But unlike years past, when deals were driven by a desire to cluster operations more efficiently, the coming consolidation wave seems sparked purely by a need to get bigger — bulking up to roll out new services more effectively and cheaply across a broader base, and to help keep rising programming costs in check. Cable operators aren't the only ones looking for scale. AT&T completed its \$48.5 billion acquisition of DirecTV in July, raising its video-subscriber tally to 26.3 million customers and vaulting the telco to the top of the list of multichannel video-programming distributors (MVPDs). Comcast, which abandoned its \$67 billion pursuit of Time Warner Cable in April when it determined regulators would not sign off on the deal, is still a solid No. 2 with 22.3 million subscribers.

Charter Communications, which started the whole consolidation wave in 2014 when it began a dogged pursuit of Time Warner Cable, finally won that prize with its May agreement to purchase the 10.8 million-subscriber TWC for \$78.7 billion. That deal is expected to close by the end of the year, and with Charter's \$10 billion purchase of Bright House Networks — also expected to close in December — the Stamford, Conn.-based operator will have 17.2 million customers with which to spread the operating acumen of CEO Tom Rutledge.

CATCHING THE WAVE

Charter is expected to at least look at other potential acquisitions, but others are not sitting idly by. European telecom giant Altice agreed to purchase a 70% interest in Suddenlink Communications for \$9.1 billion, and has said it will use the mid-sized St. Louis-based cable company as a vehicle to expand its U.S. presence.

Already, Altice chairman Patrick Drahi has named Cox Communications and Cablevision Systems as potential targets. And though Cox has insisted it isn't for sale — and there is some doubt as to whether Altice could pay Cablevision's price — there is no doubt that further consolidation is coming.

In a recent report, MoffettNathanson principal and senior analyst Craig Moffett said possible acquisition targets could include some of the larger operators at the lower end of the top 10 — Mediacom Communications, Cable One or WideOpenWest.

“It would be foolish to dismiss the idea that any or all of them might be acquired,” Moffett wrote.

And the cable industry has a long history of acquisition. For example, only three of the Top 25 MSOs of 1985 still exist today (Cox, Cablevision and Comcast); the rest have been assumed by other entities. Five of the Top 25 of 1995 are in business today — Time Warner Cable, Comcast, Cox, Cablevision and Charter — with TWC expected to be swallowed by Charter by year-end.

Cable operators stopped growing their basic-video subscriber rolls more than a decade ago. The industry peaked at about 66.9 million total subscribers in 2001, and in 2014, it finished the year with a total of about 54 million subscribers, according to the National Cable & Telecommunications Association. Broadband, for years the profit center of the business, emerged as the subscriber leader last year — the first year that cable broadband customers exceeded video subscribers.

While that had been anticipated — and in some cases, encouraged — for years, cable operators are beginning to turn the corner on basic-video subscriber growth. The four top cable service providers have drastically reduced their customer losses over the past three years; Comcast alone has cut losses by nearly 75% since 2010.

Telcos, which had been engines of video-subscriber growth for more than a decade, began reporting losses for the first time in the second quarter. AT&T said it lost about 22,000 U-verse TV customers in the most recent quarter, while Verizon Communications saw its growth cool considerably, adding 26,000 FiOS TV customers in the period compared to 100,000 additions in the prior year.

At the same time, satellite subscriber growth has stalled — DirecTV lost 133,000 net subscribers in the second quarter, well below the 60,000 additions in the first three months of the year. No. 2 satellite company Dish Network lost 81,000 net subscribers in the second quarter, almost twice the 44,000 it lost during the previous year.

Dish Network lost about 79,000 net subscribers in 2014, compared to a gain of 1,000 in 2013.

DISRUPTING THE DISRUPTOR

As satellite- and telco-TV service stagnates, a new distribution model is disrupting TV's early disruptor — cable operators. Over-the-top services like Sling TV, HBO Now and Sony's PlayStation Vue have burst onto the scene with much fanfare, and pay TV operators who may have dismissed those services in the past are now scrambling to come up with their own solutions.

In the second quarter, pay TV lost its traditional growth engines — satellite TV was down 284,000 customers while telco TV providers lost 2,000 subscribers — and perennial loss leader cable cut its losses almost in half to 280,000 from 534,000 a year ago.

Indeed, pay TV subscriber growth dipped to a record low of -0.7% in the past 12 months, according to Moffett. The pay TV industry lost 566,000 subscribers in the second quarter, 76% worse than the 321,000 it lost during the same period in 2014.

With more OTT services slated to launch later this year — Verizon is expected to debut its “mobile-only” Go90 service in the late summer and other programmers are considering launching their own direct-to-consumer services — cord-cutting will likely get worse. And cable operators will likely meet the challenge by trying to add scale.

But just how many customers will migrate over remains to be seen. Years of consolidation have narrowed the number of large available properties. While there are about 660 cable operators and 5,208 cable systems in the United States, more than 80% of the nation’s 116 million TV households are represented by the top eight MVPDs.

And unlike other years when an MVPD could buy the operator below it on the list and move up several spots on the list, today the fifth-largest provider (Verizon) could buy the next three largest distributors below it and still be stuck at No. 5 with 13.7 million customers, behind Dish Network’s 13.9 million subscribers.

- See more at: <http://www.multichannel.com/news/distribution/eat-or-be-eaten/393007#sthash.SPv4Or3K.dpuf>

Multichannel News

ISP Backers Pile on Arguments

Tell Court Where To Put FCC's New Net-Neutrality Order [8/17/2015](#)

8:00 AM Eastern

By: [John Eggerton](#)

TakeAway

More than a dozen opponents of Title II-based network-neutrality rules have weighed in to support an ISP lawsuit to void them.

WASHINGTON — When the smoke had cleared from all of the rhetorical shots fired at the Federal Communications Commission's new Title II-based Open Internet rules at the U.S. Court of Appeals for the District of Columbia, more than a dozen friends of Internet-service providers had challenged the agency's order, which took effect June 12.

At stake is how the FCC can regulate broadband networks, including wireless, as the technology moves into every nook and cranny of economic and social life.

Here is a court-watcher's guide — the decision will affect the future of the Internet — to the supporting arguments against the FCC's move to classify Internet access as a common-carrier service subject to increased agency oversight. The FCC said it needed to reclassify Internet access to backstop its new rules against such a court challenge, which undid its previous attempt in 2010 to prevent online blocking and degrading.

■ **Harold Furchtgott-Roth** is a free-market advocate who served as a Republican FCC commissioner from 1997 to 2001. Like current FCC commissioner Michael O'Rielly, who voted against the new rules, Furchtgott-Roth was also a Republican staffer who worked on the 1986 Telecommunications Act.

Writing for the Washington Legal Foundation, he warned the court against allowing the FCC to exert too much power in the name of protecting the Internet.

“The FCC’s proper role is not to promote what it considers to be good policy, but to write, enforce, and adjudicate rules that faithfully implement laws entrusted to the agency,” Furtchgott-Roth wrote. “A contrary view would not only permit regulatory agencies to essentially rewrite federal law, but it would leave their administrative powers unchecked.”

■ **Christopher Yoo** (not to be confused with Tim Wu, who coined the phrase “net neutrality”) has been a goto academic for network-neutrality opponents. He has debated Wu, written papers and appeared on numerous panels.

Yoo, a University of Pennsylvania law professor (who is also a professor of both computer science and communications), said the FCC’s definition of Internet access as a telecommunications service, rather than an information service, does not square with how the Internet actually works on an engineering level.

“An examination of the underlying technology and the reasoning of the Supreme Court’s decision in *Brand X* [which upheld the FCC’s classification of ISPs as an information service not subject to mandatory access requirements] both underscore that for Internet transmissions that use the Domain Name System (DNS) or caching, end users do not specify the endpoints of the communication. As such, Internet-access services that rely on DNS and caching are not properly classified as telecommunications services,” he argued.

■ The FCC for the first time is applying its rules to mobile broadband. Big mistake, said **Mobile Future**, a coalition of companies interested in the mobile space.

The record showed that mobile networks “are fundamentally different from fixed networks in critical ways that demand far more flexible, complex and aggressive network management,” Mobile Future said.

The FCC’s reasonable network management exemption does not provide enough flexibility and, besides, the mobile industry spent billions based on the FCC’s recognition of that difference, and to do an about-face now is unwarranted and indefensible, Mobile Future said.

■ The **National Association of Manufacturers** teamed with the **U.S. Chamber of Commerce** to say the FCC’s move would indeed hurt businesses and investment — an ISP argument that did not wash with its

chairman, Tom Wheeler — and was unnecessary because providers were already battling to deliver higher speeds.

“[W]hen Google announced plans to bring gigabit speeds to consumers, AT&T matched it for the same price,” the NAM and the Chamber told the court. “Comcast responded by offering 2-Gigabit speeds. Time Warner [Cable] countered by tripling its speeds without raising prices. The Gigabit Internet thus is poised to enjoy the robust competition that consumers have come to expect in broadband.”

■ The **Phoenix Center for Advanced Legal & Economic Public Policy Studies** roughed up the FCC’s effort to raise new rules from the ashes of the court-remanded 2010 order.

“By lumping together the distinct services provided to edge providers on the one side and end users on the other, the commission has conspicuously ignored the Court’s conclusion in *Verizon* that broadband providers furnish a service to edge providers,” the think tank wrote.

“[W]anting to side-step the legal consequences of applying Title II to the second side of the market, the commission held that it ‘need not reach the regulatory classification of the service that this Court in *Verizon* identified as being furnished to the edge’ and chose instead to lump both the retail and second side of the market into a single service.”

The think tank said the FCC “cannot have its cake and eat it too.”

- See more at: <http://www.multichannel.com/isp-backers-pile-arguments/393020#sthash.8Fx7PSo0.dpuf>

Multichannel News

Cable Ops: Show Us the Money

Ask FCC to Make Broadcasters Substantiate Retrans

Pricing 8/24/2015 8:00 AM Eastern

By: **John Eggerton**

WASHINGTON — Some cable operators and at least one public interest group want broadcasters to prove their market-rate claims when it comes to pricing demands for retransmission of their signals.

Broadcasters should be required to back up pricing with bona fide market data, a group including Mediacom Communications, CenturyLink and Public Knowledge declared in a letter requesting that the Federal Communications Commission look to labor laws and “duty to disclose” obligations to help redefine what constitutes good-faith negotiations.

The letter, sent to Media Bureau chief Bill Lake as the FCC begins its congressionally mandated review of the definition of “good-faith” retransmission-consent negotiations, said the key issue the FCC needs to address is the lack of price transparency in negotiations and that the way to fix that is to require parties to justify their prices by revealing those paid by others in the market.

Given the size of some designated market areas, Mediacom senior vice president Tom Larsen said, that could include satellite companies and large and small cable and phone companies.

“The commission concluded in 2000 that relying on established labor-law precedent governing collective bargaining as a tool for interpreting and applying the good-faith retransmission-consent negotiation requirement was consistent with congressional intent,” they argued, adding the “totality of

circumstances” test the FCC is charged to review in the good-faith inquiry comes directly from labor law.

Given that, they said, the FCC should also borrow the concept that negotiating parties have an obligation (“duty to disclose”) to provide evidence substantiating their claims.

The FCC has not required that, but circumstances have changed, and the group wants the FCC to change with them.

“Taking a page from labor law precedent, the commission should require, as part of the totality of the circumstances standard, that the parties negotiating the terms of a retransmission- consent agreement disclose relevant information substantiating and verifying their bargaining claims,” they told Lake.

National Association of Broadcasters spokesman Dennis Wharton dismissed the proposal out of hand. “Another day, another ridiculous Mediacom petition,” he told *Multichannel News*. “The FCC should ignore this disingenuous suggestion from a company famous for its last-place customer service record.”

Also signing on to the letter were Consolidated Communications, FairPoint Communications, NTCA — The Rural Broadband Association, Public Knowledge, and ITTA, which represents mid-sized telecom providers. (ITTA was inadvertently omitted from the list when this story first published. We regret the oversight).

- See more at: <http://www.multichannel.com/news/policy/cable-ops-show-us-money/393172#sthash.zJsA9rI6.dpuf>

Multichannel News

Cable Pushes Back on Over-the-Top

FCC Vote on Redefinition Signaled for Fall 8/24/2015 8:00 AM Eastern

By: **John Eggerton**

TakeAway

With FCC chairman Tom Wheeler eyeing year-end for a vote on his proposal to reclassify OTT providers, the cable industry is making its views known.

WASHINGTON — Cable groups are telling the Federal Communications Commission that its proposal to redefine online video distributors is, well, over the top.

FCC chairman Tom Wheeler has signaled a vote by year-end on his proposal to define some over-the-top (OTT) programming services as multichannel video programming distributors, with program-access and retransmission-consent negotiation rights — and potentially other rights and obligations. That, in turn, has prompted a flurry of activity from cable operators trying to head off such as reclassification.

The National Cable & Telecommunications Association has long argued that MVPDs must have facilities as well as programming to meet that definition, something the FCC also tentatively concluded.

But in his ongoing push to promote competition to cable, Wheeler proposed to factor facilities out of that tentative definition when it comes to OTT providers that deliver linear channels of programming around the clock.

That would initially apply to Aereo, were that company still in business, and religious-programming provider Sky Angel, whose years-old petition the FCC is resolving in the proposed redefinition. But the FCC is aiming ahead of the

target, anticipating and promoting linear over-the-top services that could compete with traditional cable.

With a deadline for action, cable operators and studios and others have been meeting with top FCC staffers to try and dissuade them from following the chairman's lead.

Gleaned from ex parte filings about those letters filed with the commission, here is a highlight reel of the arguments they hope will gain some purchase with the other four commissioners — or perhaps even the chairman.

- **Washington-based executives** from Time Warner Inc., 21st Century Fox, The Walt Disney Co., Viacom and CBS converged met with Wheeler aides to make two key points.

One, they expressed their belief that online programming rights are best dealt with separately, under copyright law, rather than by the FCC “influencing” their acquisition, the studios don't want the FCC to apply program access rules to any over-the-top services the programmers operate themselves via their own applications, services or websites.

The FCC has tentatively agreed, saying that it does not think the MVPD definition should apply to “a distributor that makes available only programming that it owns — for example, sports leagues or standalone services like CBS's new streaming service.”

- **The NCTA picked a Republican**, meeting with commissioner Ajit Pai's chief of staff to argue that giving OTTs MVPD status contradicts the clear definition of an MVPD as a provider with a transmission path — network or signal — and not just the content, which has been the trade group's main argument.

The FCC has proposed making OTT providers subject to the good-faith bargaining requirement for retransmission-consent negotiations with MVPDs. That would require OVDs to negotiate for the right to retransmit each

program on a TV station, since OVDs don't have a compulsory license, as cable operators do, the NCTA has said.

The NCTA agrees with the FCC that cable operators aren't cable operators when they migrate to Internet-protocol delivery or deliver a TV Everywhere version of their traditional lineups. It also agrees with the FCC's tentative conclusion that when cable operators deliver a separate OTT service they are not cable operators and, if the NCTA could persuade the commission from its redefinition, not subject to program-access rules.

- **AMC Networks** had the NCTA's back on the issue of networks necessarily having the online rights to their programs.

In its filing, AMC said that if the FCC forces such negotiations it could actually raise programming costs, "especially due to the increased leverage content holders will have in negotiations with affected programmers."

That would run counter to Wheeler's oft-cited goal of finding a way to reduce cable bills, instead of increasing them.

- See more at: <http://www.multichannel.com/cable-pushes-back-over-top/393187#sthash.xVxjqedo.dpuf>

Multichannel News

Telcos Dial Into the Call for Retrans Reform — Loudly

8/31/2015 8:00 AM Eastern

By: **John Eggerton**

WASHINGTON — The Federal Communications Commission has asked pay TV industry players for comment on the state of video competition to help shape its next annual report to Congress.

“Testy” comes to mind after reviewing some of the responses from major players — notably telco video providers — who used the docket to sock it to the current retransmission-consent rules.

The heated debate over retrans reforms has a new battleground in the FCC’s just-opened and congressionally mandated review of what constitutes “good-faith” bargaining between television stations and the pay TV providers that carry them. But the video competition report hosted its own round of punches between multichannel video programming distributors (MVPDs) and broadcasters.

MVPDs — particularly telco video providers — were lining up to take aim at retransmission consent.

In sync were telco AT&T and its new merger partner, satellite-TV firm DirecTV. They told the FCC that “exploding” retrans fees will inevitably mean higher prices, which will mean lower demand and reduced subscriber choice, an equation meant to trouble the FCC in its push for lower prices and more choice. They came armed with numbers — retrans fees rose 8,600% between 2005 and 2012, and there have been 450 blackouts in the past five years.

Telco Verizon Communications also hit on the price and blackout points and on fixing the broken retrans system.

The American Cable Association presented the FCC with some sobering figures to make its point that the state of the video competition marketplace is not so hot for its smaller, independent cable constituents, who face big programming price tags.

In its comments on the FCC's next video competition report to Congress, the ACA said that some 91 small cable systems shut down last year, according to figures from the National Cable Television Cooperative.

The good news is, that was down from the two previous years. The bad news is that all told, 353 systems have shuttered over that time, and 1,169 have closed since 2008.

ACA conceded there are more factors to those shutdowns than programming costs, but said increases in the price of content — including the price of bundled channels in retrans deals — remain one of the primary culprits. It wants the FCC to make that point in its report to Congress.

The National Association of Broadcasters warned the FCC against “bending retransmission-consent rules in pay TV providers’ favor,” but MVPDs talked about the broken retrans system that needed mending ASAP.

The NAB also said the FCC should not scrap broadcast- content exclusivity rules, but that horse appeared to have left the barn already, with an order on the commissioners’ desks that would eliminate them, circulated and supported by FCC chairman Tom.

- See more at: <http://www.multichannel.com/telcos-dial-call-retrans-reform-loudly/393316#sthash.NFwnkVJx.dpuf>

Multichannel News

Trade Journal Links

As triple play packages decline in popularity and popularity, and cable companies feel the pressure to continue to produce increasing profit margins, expect to see you data prices rising | [POTs and PANs](#)

"Comcast is doubling the speed of its low-cost Internet plans" | [Washington Post](#)

Public Knowledge Analysis: "The Internet of Things and the Importance of Unlicensed Spectrum" | [Public Knowledge](#)

"A trio of Democratic Representatives asked the Federal Communications Commission not to put TV stations in the duplex gap, but instead make sure stations in all markets can use that spectrum for wireless mics." | [Broadcasting & Cable](#)

"The new streaming service for HBO is booming but new subscriptions aren't coming from cable TV cord cutters..." | [Washington Post](#)

"Charter CEO: young people can't afford pay-TV" | [Rapid TV News](#) (Gary White)

All: Regardless of the claim that the NYTimes is the newspaper of record, they many times just repeat the current MSM memes. Thus, folks might find this article from yesterday's Broadcasting & Cable of interest. <http://www.broadcastingcable.com/news/currency/vab-cord-cutters-see-savings-not-better-content/143622>

<http://www.nytimes.com/2015/08/21/opinion/consumers-are-cutting-the-cord-to-gain-choices-and-pay-less.html? r=1>

"Officials at the Federal Communications Commission are facing a historic challenge. The agency is being asked to do something that has never before been tried: a two-step auction of American airwaves that is intended to shift resources from broadcasters to wireless companies." | [The Hill](#)

The Wi-Fi blocking debate is far from over as the FCC hits Smart City with a \$750K fine "or pulling a Marriott at several locations and blocking personal WiFi hotspots." | [Network World](#)

"Comcast has very quietly gotten into the smart home and the Internet of Things business...[with] 500,000 customers for what they are calling Xfinity Home." | [POTs and PANs](#)

NAB, NATOA Sue FCC Over Effective Competition Decision; See the Filing [HERE](#)

Alabama Nixes Proposed Tax on Video Streaming, Digital Rentals: State had planned to follow Chicago, which recently imposed a 9% amusement tax on subscription streaming services such as Netflix. | [Home Media Magazine](#)

..."People shouldn't need to rent a box from their operator to watch TV, and the devices they buy should have as much flexibility as possible in how they display and interact with the content that users are already paying for." | [Public Knowledge Blog](#)

