Wheeler Pounds The Bully Pulpit

Demands Documents From TWC, Explanations From Verizon Wireless

8/04/2014 8:00 AM Eastern

By: **John Eggerton**

TakeAway

FCC chairman Tom Wheeler last week fired off terse letters to Time Warner Cable and Verizon Wireless, demanding action and answers in two consumer-related complaints about program access and broadband speeds.

WASHINGTON — Federal Communications Commission chairman Tom Wheeler last week was pounding his bully pulpit with one hand while he penned some tough-talking letters with the other.

Broadcasters have felt hammered by recent FCC decisions on joint-sales agreements and spectrum auctions, as well as the advisory on sharing arrangements in general.

But broadband companies were in the chairman's sights last week, the latest targets of his promise to use his office's power to protect consumers, ensure access to networks and preserve competition.

After receiving a letter from an unhappy California delegation in Congress, Wheeler fired off a letter to Time Warner Cable chairman and CEO Rob Marcus threatening to intervene in the ongoing carriage fight TWC, DirecTV and other distributors are engaged in over TWC's SportsNet LA, television rightsholder for Major League Baseball's Los Angeles Dodgers.

Former FCC chairman Julius Genachowski was known to encourage parties in high-profile disputes to the table, for the sake of viewers, and the Media Bureau regularly monitored retransmission disputes, particularly when they drew input from Capitol Hill.

But Wheeler's letter was particularly terse, accusing Time Warner Cable of being the bad guy, invoking program- access rules and suggesting a broadband-adoption angle. "I am also concerned about the negative impact that this dispute may have on the growth of broadband services in the Los Angeles area," Wheeler wrote.

Amid the Hill pressure and in advance of the Wheeler letter, TWC agreed to outside arbitration with DirecTV, and to put the games on the national satellite service in the interim. But DirecTV didn't jump at the offer, and Wheeler was not assuaged.

"While I am encouraged by TWC's willingness to enter arbitration, I am troubled by the negative impact that your apparent actions are having on consumers and the overall video marketplace," Wheeler told Marcus in the letter, demanding copies of contracts and other relevant documents and giving TWC 10 days to comply.

Wheeler also called Marcus about the impasse last week, according to a FCC spokesman, and placed calls to a pair of House Democrats from California, Reps. Tony Cardenas and Henry Waxman.

For cable operators, Wheeler's threat of intervening if arbitration doesn't pan out could cut both ways.

Time Warner Cable signaled it would cooperate, but suggested the chairman needed to widen his net.

"We're grateful for the FCC's intervention and happy to work with them to gain carriage for the Dodgers — that has been our goal all along," the company said in a statement. "We hope that chairman Wheeler is making similar inquiries of DirecTV and other L.A. television distributors to determine their rationale for refusing to carry SportsNet LA, which we have offered at terms similar to other regional sports networks, including those owned by DirecTV. We look forward to a productive discussion."

Time Warner Cable was hardly expected to fire back at the FCC, given that it is currently working with Comcast to get the commission to approve the MSOs' merger.

Cable operators don't like to be in the chairman's sights, but they have been looking for the FCC to get involved in programming negotiations on the retrans front. Wheeler's interest in the Dodgers blackout could translate to a high-profile retrans blackout as well.

COMMERCIALLY UNREASONABLE?

Wheeler also last week put an exclamation point on his warning to ISPs, wired and wireless, that subscribers ought to be getting the speeds they paid for. He has said he doesn't think failing to deliver those speeds is "commercially reasonable," the proposed new definition of allowable discrimination in network management.

Verizon Wireless was the target of a second letter Wheeler wrote, this one because of the company's announcement that it planned to slow speeds for the heaviest 5% of users with unlimited plans at peak times.

Two weeks ago, the FCC's Enforcement Bureau advised ISPs that "consumers rightly expect to receive the Internet access that they have been promised by their service providers." That statement came from acting Enforcement Bureau chief Travis LeBlanc, who in a Congressional hearing last week demonstrated a passion for rooting out bad actors.

"We are committed to holding broadband Internet providers accountable if they fail to deliver on the commercial promises they make to the American people," LeBlanc said.

Subsequently, Wheeler last week told Verizon, " 'Reasonable network management' concerns the technical management of your network; it is not a loophole designed to enhance your revenue streams," adding: "I know of no past Commission statement that would treat as 'reasonable network management' a decision to slow traffic to a user who has paid, after all, for 'unlimited' service."

Wheeler asked Verizon for a prompt explanation of what the company thought it was doing. Verizon said he would get one, and previewed it in a statement: "What we announced … was a highly targeted and very limited network-optimization effort, only targeting cell sites experiencing high demand. The purpose is to ensure there is capacity for everyone in those limited circumstances and that high users don't limit capacity for others."

The FCC has no enforceable anti-blocking or anti-discrimination rules on the books — though those would not apply to wireless — but Wheeler asked how the Verizon policy would square with the transparency rule still in place for wireless and wired broadband, and pointed out that Verizon is subject to conditions on its purchase of wireless spectrum in the C-block auction.

On July 23, the FCC released an enforcement advisory reminding broadband providers of their responsibilities under the transparency rule, the only Open Internet order rule that survived intact after court review.

- See more at: http://www.multichannel.com/news/wireless/wheeler-pounds-bully-pulpit/382922#sthash.35ZuRoxQ.dpuf

Multichannel News – August 4, 2014

Charter Lines Up Loans to Buy Comcast Subs

Receives Commitments For $8.9 Billion8/04/2014 8:00 AM Eastern

By: **Mike Farrell**

Charter Communications is putting together the funds to go ahead with its planned purchase of about 1.4 million customers from Comcast, after Comcast closes its pending $69 billion merger with Time Warner Cable.

Charter recently received commitments from four separate banks for up to $8.9 billion, most of which will be used to buy former Time Warner Cable systems located in Ohio, Kentucky, Wisconsin, Indiana and Alabama.

Charter is looking to augment existing operations in those areas: it already has a strong presence in Wisconsin, with about 578,000 customer relationships, and would add another 372,000 subscribers in Milwaukee if the transactions go through, according to SNL Kagan estimates. Charter also will gain about 616,000 customers in Cleveland, according to Kagan.

“All of these assets are physically contiguous and put Charter in an operationally better footprint,” Charter CEO Tom Rutledge said shortly after the deal was first announced.

Announced in April, Charter’s transactions with Comcast would occur only after Comcast’s pending merger with Time Warner Cable is completed and after sales, swaps and a spinoff of assets to a separate company — tentatively called SpinCo — occur. Charter will own onethird of SpinCo.

About 1.6 million customers are to be swapped between Charter and Comcast-TWC, and Comcast is going to move about 2.5 million customers into publicly traded SpinCo. The three transactions were valued at a collective $20 billion when first announced.

It was unclear whether loan proceeds would also be used in part for the swapped systems, but according to a Charter spokesman, the bulk of the money would be used for the purchased properties.

Charter said it received commitments from Goldman Sachs, Bank of America, Credit Suisse and Deutsche Bank for senior secured term loan facilities totaling up to $8.4 billion and a senior secured incremental revolving facility equal to $500 million.

See more at: http://www.multichannel.com/news/distribution/charter-lines-loans-buy-comcast-subs/382940#sthash.Yy8QtfFi.dpuf

Multichannel News – August 4, 2014

FOR IMMEDIATE RELEASE

ABOUT 385,000 ADD BROADBAND IN THE SECOND QUARTER OF 2014

Cable Broadband Subscribers Surpass Cable TV Subscribers

Durham, NH – August 15, 2014 – Leichtman Research Group, Inc. (LRG) found that the seventeen largest cable and telephone providers in the US – representing about 93% of the market – acquired nearly 385,000 net additional high-speed Internet subscribers in the second quarter of 2014. These top broadband providers now account for over 85.9 million subscribers – with top cable companies having nearly 50.7 million broadband subscribers, and top telephone companies having over 35.2 million subscribers.

Other broadband findings include:

- Overall, broadband additions in 2Q 2014 amounted to 130% of those in 2Q 2013
- The top cable companies accounted for 99% of the net broadband additions for the quarter versus the top telephone companies
- The top cable companies added about 380,000 broadband subscribers, representing 128% of the net additions for the top cable companies in 2Q 2013
- For the top cable providers (not including overbuilder WOW), the number of broadband subscribers exceeded the number of cable TV subscribers for the first time ever – with about 49,915,000 broadband subscribers at the end of 2Q 2014, compared to about 49,910,000 cable TV subscribers
- The top telephone companies added about 2,000 broadband subscribers in 2Q 2014 – compared to a loss of about 2,000 in 2Q 2013
- AT&T and Verizon added 627,000 subscribers via U-verse and FiOS in 2Q 2014, while having a net loss of 636,000 DSL subscribers
- The top cable broadband providers have a 59% share of the market versus the top Telcos

"With the addition of more than 30 million broadband subscribers over the past decade, cable providers have clearly expanded well beyond their roots in cable TV service," said Bruce Leichtman, president and principal analyst for Leichtman Research Group, Inc. "As of the end of 2Q 2014, the top cable providers now have more broadband subscribers than cable TV subscribers."

Broadband Internet	Subscribers at end of 2Q 2014	Net Adds in 2Q 2014
Cable Companies		
Comcast	21,271,000	203,000
Time Warner*	11,965,000	86,000
Charter	4,850,000	62,000
Cablevision	2,779,000	(9,000)
Suddenlink	1,103,300	200
Mediacom	987,000	3,000
WOW (WideOpenWest)**	769,600	12,900
Cable ONE	482,725	(1,443)
Other major private cable companies***	6,475,000	25,000
Total Top Cable	**50,682,625**	**381,657**
Telephone Companies		
AT&T	16,448,000	(55,000)
Verizon	9,077,000	46,000
CenturyLink	6,055,000	(2,000)
Frontier^	1,900,500	27,500
Windstream	1,153,800	(16,600)
FairPoint	333,421	1,883
Cincinnati Bell	270,300	300
Total Top Telephone Companies	**35,238,021**	**2,083**
Total Broadband	**85,920,646**	**383,740**

Sources: The Companies and Leichtman Research Group, Inc.

* *Subscriber totals slightly adjusted from prior quarters*

** *Includes a minor system acquisition, net adds are not reported on a pro forma basis*

*** *Includes LRG estimates for Cox, and Bright House Networks*

^ *LRG estimate, does not include wireless subscribers*

Company subscriber counts may not represent solely residential households

Totals reflect pro forma results from system sales and acquisitions

Top cable and telephone companies represent approximately 93% of all subscribers

About Leichtman Research Group, Inc.

Leichtman Research Group, Inc. (LRG) specializes in research and analysis on broadband, media and entertainment industries. LRG combines on-going surveys and analysis with years of hands-on industry experience to provide companies with a richer understanding of the potential impact and adoption of new products and services. For more information about LRG, please call (603) 397-5400 or visit www.LeichtmanResearch.com.

###

Consumer Groups Ask FCC To Block Comcast-TWC Deal
CU, Common Cause Call Merger 'Unprecedented'8/25/2014 8:00 AM Eastern

By: John Eggerton

TakeAway

Two of the biggest U.S. consumer groups have weighed in against a Comcast-Time Warner Cable merger.

WASHINGTON — Consumers Union and Common Cause have teamed up on a petition to deny Comcast's acquisition of Time Warner Cable.

They called the deal an "unprecedented, monumental step in the direction of further consolidation of Big Media."

Both are veteran critics of media mergers, so the opposition is not a big surprise.

In the 48-page filing, not including appendices, the groups said the deal would "harm competition, impede innovation by online video distributors, threaten innovation in equipment and platforms, and reduce the diversity of information sources and services to the public, all to the detriment of consumers and contrary to the public interest."

"If this deal goes through, we can expect to be hit with more skyrocketing bills and worse service as Comcast gains even more control over what we see online and on TV," Delara Derakhshani, policy counsel for Consumers Union, said in announcing the petition. "The two companies have failed to demonstrate how the merger would serve the public interest. The benefits they claim are overstated, or elusive, or don't depend on a merger, and they are far outweighed by the harm."

Comcast and TWC have argued that since there will be no overlap, a combined company would not reduce choices in either broadband or traditional video. But Consumers Union and Common Cause said that is “too narrow a view of how competition works and how it would be harmed … by the logic of that narrow view, Comcast should be free to acquire every cable and Internet company throughout the country in every market it does not already serve — amassing a nationwide monopoly.”

The deadline for petitions to deny is Aug. 25. Comcast and TWC will have an opportunity to respond to that and other petitions, if any, in reply comments.

- See more at: http://www.multichannel.com/consumer-groups-ask-fcc-block-comcast-twc-deal/383321#sthash.49WeOwmz.dpuf

Multichannel News – August 25, 2014

Wheeler in Pre-emption Fight Over Muni Broadband Laws

8/25/2014 8:00 AM Eastern

By: John Eggerton

TakeAway

A party-lines battle is brewing over whether the FCC can pre-empt state laws limiting municipal broadband buildouts.

WASHINGTON — Federal Communications Commission chairman Tom Wheeler is in for a fight when it comes to pre-empting state laws limiting municipal broadband.

Last week, a pair of Democratic legislators cheered on that effort, while the top aide to Republican commissioner Ajit Pai signaled his strong opposition.

For months now, Wheeler has said he believes the FCC had the authority and responsibility in "appropriate" circumstances to invalidate state laws he argues were the product of the incumbent ISPs lobbying against competition that could lower costs and improve services.

Cable operators have countered that government subsidized broadband can leave taxpayers footing the bill for failed build outs. Generally, cable operators don't want government money used to subsidize competitors, arguing that incumbent providers could be driven from the market if they can't make a business case for pricing the service competitively against a subsidized entrant.

It had been unclear for a while just when and how Wheeler would wade into the issue.

That was resolved when the cities of Chattanooga, Tenn., and Wilson, N.C., petitioned the commission to pre-empt laws in their states that they allege "restrict their ability to expand their broadband service offerings to surrounding areas where customers have expressed interest in these services," the FCC said in announcing the petitions.

Municipal broadband advocates Rep. Mike Doyle (D-Pa.) and Sen. Ed Markey (D-Mass.) last week pushed the FCC to pre-empt.

"I strongly encourage [chairman Wheeler] and the FCC to take quick and decisive action to lift restrictions that limit or prevent communities from addressing their own broadband needs," Doyle said in a joint statement with the senator.

Doyle and Markey released a letter from Wheeler that was in response to their inquiry about pre-emption. In it, Wheeler said any decision about municipal broadband would come after an open proceeding with careful analysis. But while he said he respected state governments, he also knew that when local laws conflict with "critical federal laws and policy," they can be pre-empted.

Wheeler said he would not take the step lightly, but he clearly appeared ready to put his foot down. "Many states have enacted laws that place a range of restrictions on communities' ability to invest in their own future, and there is reason to believe that these laws have the effect of limiting competition in those areas," he said.

Matthew Berry, chief of staff to Republican commissioner Ajit Pai, said the FCC definitely doesn't have the legal authority to pre-empt state broadband laws.

Berry, former FCC general counsel and a former law clerk to Supreme Court Justice Clarence Thomas, was speaking Wednesday morning to the National Conference of State Legislatures' (NCSL) legislative summit in Minneapolis. Those are the legislators responsible the laws the FCC is eyeing for pre-emption.

"The debate at the commission is going be about a relatively narrow but critical question: Does the FCC have the legal authority to pre-empt state laws regulating municipal broadband?" Berry said, according to prepared remarks. "And the answer to that question is a resounding no."

For its part, the NCSL has already told Wheeler that it would sue if the FCC tries to preempt state laws.

The FCC is eyeing authority under Section 706 of the Telecommunications Act to support pre-emption, which allows it to regulate to ensure that advanced telecommunications is being provided in a reasonable and timely fashion — the same authority proposed to support network-neutrality rules — but Berry suggests that is a reach that would exceed its legal grasp.

TAGS:

- See more at: http://www.multichannel.com/wheeler-pre-emption-fight-over-muni-broadband-laws/383323#sthash.2wInlCuO.dpuf

Multichannel News – August 25, 2014

Comcast Takes IP Video to School

can Multiscreen ‘Xfinity on Campus’ Service make the grade?

8/25/2014 8:00 AM Eastern

By: **Jeff Baumgartner**

TakeAway

Comcast has launched its IP-delivered “Xfinity on Campus” product in a bid to connect with tech-savvy collegians.

Aiming to make a pay TV connection with tech-savvy, always on-the-go college students, Comcast has formally launched Xfinity on Campus, a managed IP-delivered, multiscreen video service that’s designed to run on Web browsers, tablets and smartphones.

The authenticated service, which is powered by Comcast’s cloud-based X1 platform and had previously been in the trial phase, delivers a lineup of about 80 live channels, access to certain premium TV services and a menu of video-on-demand titles, all via the campus network.

The service, which relies on adaptive bit rate techniques that adjust the quality and resolution of the video stream based on the target device and the amount of capacity available on the network, is accessible via WiFi at ***XfinityOnCampus.com*** and via an app for iOS devices. An Android version is in the works. Students gain access to the service by inputting their credentials.

Comcast is also working on IP set-tops for the service that would connect directly to TVs.

In a twist that was not available during the initial wave of on-campus trials, Comcast this fall will also start allowing Xfinity on Campus subscribers to use third-party TV Everywhere apps and services such as WatchESPN, FXNOW and HBO Go. Comcast expects to eventually integrate its own TVE app, Xfinity TV Go, with its university- tailored service.

Comcast will also pair the Xfinity on Campus service with the operator's new cloud DVR service as it expands that capability into more regions. Comcast has already introduced its cloud DVR service in several markets, including Atlanta, Chicago, Delaware, Maryland, Virginia and Washington, D.C. That service will also allow students to "check out" and download cloud-recorded programs to mobile devices and watch them on the go.

The new student-tailored service debuts as Comcast and other cable operators are trying new ways to reach Millennials and an overall group of young consumers who are not only used to watching video on mobile devices, but have previously cut the cord or have never subscribed to a pay TV service. A media and technology study issued by Deloitte earlier this year indicated that just 44% of video viewing among Millennials in the 14-24 age group was done on televisions, while the majority of their viewing was done on some type of mobile device, such as a laptop, tablet or smartphone.

Comcast is launching Xfinity on Campus with a handful of schools this fall, with two others on board to test out the system (see sidebar). But the plan in the years ahead is to have all universities in Comcast's footprint take advantage of the new platform and to use Xfinity on Campus to attract new college partners, Marcien Jenckes, executive vice president of consumer services for Comcast Cable, said.

"We're excited about the opportunity that it creates. It's kind of a new manifestation of what a cable service can be," Jenckes said. "We think it's very relevant to students … who want to consume television on their terms. It also serves as a great way to introduce ourselves to our next generation of customers."

For a university to be technologically eligible for the new offering, the local market must already have Comcast's "cloud-to-ground" streaming service for X1, which essentially replicates the MSO's traditional video packages and delivers them over IP to any device in a customer's home. Comcast expects to have that capability launched in the majority of its service area by the end of the year.

For Xfinity on Campus, Comcast is connecting to university partner networks via its fiber-based, business-class Ethernet platform.

Comcast isn’t revealing pricing, but the Xfinity on Campus service is included with room and board for students who live in on-campus housing. Students also have the option to subscribe to HBO, Showtime and Starz, as well as a sports tier that features channels such as ESPN Goal Line.

Comcast, which has yet to include its premium multiscreen Streampix service in its university-focused offering, is also considering adding an international channel package to its Xfinity on Campus slate.

Comcast isn’t the only company that has its video eye fixed on college students. Philo, a Boston-based startup that counts HBO and Mark Cuban among its backers, has developed a similar on-campus IP video platform. Philo has said it has deals with “dozens” of schools, including Yale University, Fort Hays State University, the University of Washington, Roanoke College, Harvard University, Wesleyan University, Pepperdine University and William Paterson University of New Jersey.

Cool for School
With Xfinity on Campus reaching the commercial rollout stage, Comcast hopes to extend the reach of its IP-delivered service to more universities in its footprint. Following are the schools on board for this fall.

Launching
Bridgewater College, Bridgewater, Va.
Drexel University, Philadelphia
Emerson College, Boston
Lasell College, Newton, Mass.
University of Delaware, Newark, Del.

Trialing
Massachusetts Institute of Technology, Cambridge, Mass.
University of New Hampshire, Durham, N.H.

- See more at: http://www.multichannel.com/comcast-takes-ip-video-school/383324#sthash.C1o3z1Eq.dpuf

Multichannel News – August 25, 2014

No Rush to Judgment on Title II

8/25/2014 8:00 AM Eastern

By: MCN Staff

Surprisingly, the editorial board of *The New York Times* last week weighed in with its proposed resolution of the Federal Communications Commission's Open Internet proceeding, which still has several weeks before the window for reply comments is closed. The initial comment round already has generated over 1 million responses, in part from a plea made on HBO's *Last Week Tonight With John Oliver* to email responses in.

"President Obama: No Internet Fast Lanes," published prominently on Aug. 14, reinforces comments made last month by Assistant Secretary of Commerce Lawrence E. Strickling, administrator of the National Telecommunications and Information Administration (NTIA), the agency principally responsible by law for advising the president on tech policy issues.

Speaking in mid-July at the Internet Governance Forum USA conference, Strickling indicated that "the president has made very clear where he expects this debate to end up. He supports net neutrality and an open Internet as does [Commerce] Secretary [Penny] Pritzker."

But Strickling also noted that the "NTIA, working with other agencies in the U.S. government, is conducting analyses and engaging stakeholders, and we will be carefully reviewing the comments filed in the FCC proceeding."

Despite this extensive work that still is being undertaken, the *Times* editorial confidently advances a "better option" — namely, that the FCC "can reclassify broadband Internet service as a telecommunications service, which would allow regulators to prohibit phone and cable companies like Verizon and Comcast from engaging in unjust or unreasonable content." The FCC "wrongly classified broadband as an information service" rather than as a traditional common carrier service under Title II of the Telecommunications Act of 1996, The *Times* said. This may leave the impression that President Obama already has reached the same conclusion, which does not seem to be the case at all.

In his remarks, Strickling said: "[W]e know there is a debate about the legal authority of the FCC to regulate in this space, whether it be under Title I or Title II … From our perspective, we want to look at the entire end-to-end delivery of content to consumers and understand where, if anywhere, in that framework there might be issues for consumers."

These issues suggest that despite the president's ultimate conclusions already having been articulated — and now that Title II implementation has been endorsed enthusiastically by *The New York Times* — the considerable ongoing analyses by the Obama administration's expert advisers and others still represent the sounder approach to policymaking in this complex area.

Stuart N. Brotman teaches at Harvard Law School and serves as a nonresident senior fellow in the Center for Technology Innovation at The Brookings Institution.
- See more at: http://www.multichannel.com/no-rush-judgment-title-ii/383337#sthash.OltExMSZ.dpuf

Multichannel News – August 25, 2014

Broadcasters Fear Dressed-Up STELA

NAB Outlines Possible ‘Harmful’ Additions to Bill

8/25/2014 8:00 AM Eastern

By: John Eggerton

TakeAway

Broadcast-TV stations are airing their concerns about “harmful” additions to a bill to reauthorize the satellite-TV copyright license.

WASHINGTON — The “Local Choice” proposal in a Senate bill has thrown a scare into broadcasters, who have made it one of their key talking points in trying to convince Congress not to tackle several video-regulation reforms this year.

But TV-station owners are concerned about a number of regulatory flashpoints that could surface as the Senate considers its version of satellite-license reauthorization legislation, according to a copy of some National Association of Broadcasters talking points.

Local Choice, offered up by Senate Commerce Committee leaders as a possible addition to the must-pass legislation, would let pay TV subscribers decide whether they wanted to pay for broadcast-station signals, essentially scrapping the retransmission-consent negotiation model for direct sales from broadcasters to viewers.

But that was only one of the “extraneous and harmful” additions broadcasters feared could be added to the bill.

They have reason to be concerned. Sen. Jay Rockefeller (D-W.Va.), the retiring Senate Commerce Committee chairman, has signaled he wants to use the Satellite Television and Localization Act (STELA) as a vehicle for video reforms, some backed by cable operators. The new version of STELA — called the Satellite Television Access Reauthorization Act of 2014, or STARA — renews the compulsory license that allows satellite-TV providers to import distant network-affiliated TV-station signals in areas where there is no in-market access to a comparable affiliate.

The reauthorization, which affects some 1.5 million pay TV subscribers, must pass before Rockefeller exits the Congress.

From a document obtained by *Multichannel News*, here are some of the broadcasters' fears (in addition to Local Choice), as expressed in their own talking points:

Elimination of sweeps prohibition: "Eliminating the [rule forbidding cable systems from dropping TV stations during Nielsen's sweeps periods] gives pay TV the ability to target smaller markets, allowing cable and satellite to pull broadcast programming during the periods when local stations are measured, thus wreaking havoc with their advertising rates and jeopardizing their station revenues."

Removal of basic-tier/lifeline services: "Today, pay TV subscribers are able to get local broadcast programming from the basic tier — the cheapest and most accessible tier available from a pay TV provider. The basic tier is considered the 'lifeline tier' because viewers rely on this programming during times of emergency. Removing broadcasters from the basic tier would allow pay TV companies to place broadcasters in a higher, more expensive tier, thus, charging consumers more for content they get today on the least expensive package."

Ban on joint retransmission-consent negotiations: "Pay TV companies are working to prevent any joint broadcast retransmission-consent negotiations, which makes these negotiations more expensive and more difficult for local broadcasters. Congress should not ban small broadcasters from getting the financial efficiencies of jointly negotiating."

Restricting content owners ability to control their online programming: "Literally hundreds of millions of dollars are spent annually on broadcast programming, which is some of the most watched content on television. Some in Congress have talked about dictating to content owners when, where and how local broadcast content is available online. This kind of heavy-handed government involvement in programming rights would stifle the already abundant content currently available.

Comprehensive Designated Market Area (DMA) reform: "Pay TV companies are anxious to dismantle the local broadcasting model by picking apart the DMA system, which allows local advertisers to target their local customers. Markets should not be altered to give pay TV companies an advantage while negotiating with local stations for carriage of local stations."

Forced carriage/binding arbitration: "Pay TV companies have asked for increased government involvement in the free marketplace negotiations. They are asking for government-mandated carriage and forced baseball-style arbitration in retransmission-consent disputes. However, this kind of government involvement in private marketplace negotiations would only reward bad actors in the pay TV space and distort true market value of broadcast content."

- See more at: http://www.multichannel.com/broadcasters-fear-dressed-stela/383331#sthash.eH2lnVB6.dpuf

Multichannel News – August 25, 2014

Weighing In on a Mega-Merger

Comcast-TWC Deal Critics, Fans Pile On At FCC

9/01/2014 8:00 AM Eastern

By: John Eggerton

TakeAway

With the deadline for comments on the $45.2 billion Comcast-Time Warner Cable merger now past, No. 1 U.S. MSO Comcast can size up the opponents to its plan to acquire No. 2 TWC.

WASHINGTON — Comcast can now size up its opposition.

A range of opponents have signalled their displeasure with the largest U.S. MSO's proposed $45.2 billion transaction to purchase No. 2 Time Warner Cable since it was announced in February. Should the two companies consummate the deal — which Comcast said last week could happen by early next year — it would result in a mega-MSO with about 30 million subscribers and some 30% of the U.S. pay TV market.

Now, though, opponents of the deal are on the books at the Federal Communications Commission — chapter, verse and conditions — and Philadelphia-based Comcast can plan its counterpunches.

Dish Network, Free Press, the Consumer Federation of America, the Writers Guild of America West, the Future of Music Coalition, and WeatherNation TV were among those officially petitioning the FCC to block the deal.

If the agency doesn't stop the transaction outright, the petitioners want plenty of conditions. Among the asks were protecting spot cable; making it easier to hook up third-party modems in Charter Communications systems (Stamford, Conn.-based Charter will own or manage an additional 5 million subscribers through transactions related to the Comcast-TWC deal); a la carte; retransmisson-consent conditions; and a veritable host of others. (See "Strings Attached,".)

The deadline for comments from both sides was Aug. 25. Comcast noted that more than 200 groups and officials have weighed in with their support, but critics citing everything from Comcast's size to its sports programming to its control of the weather, have argued against it.

Comcast received backing from a host of groups that claimed their partnership with the cable company benefitted minorities, broadband adoption, kids and much more, going beyond financial support to provide tech support and labor. Some critics labeled those efforts as buying support for the deal with corporate contributions.

Many of the merger criticisms centered on the combined companies' high-speed Internet subscriber count, with some putting it as high as 60% of the U.S. broadband market. Comcast said its share of Internet customers was at most 35.5%, and as low as 15% if wireless LTE providers were included.

Comcast has until Sept. 23 to reply to the comments, but executive vice president David Cohen, who is responsible for shepherding the deal through the FCC and the Justice Department — as he did with the MSO's 2011 acquisition of NBCUniversal — has already weighed in with a lengthy blog post responding to critics (see "Deal or No Deal,"), saying that some of the programmers critical of the deal are ones that failed to renegotiate better terms in exchange for their support.

Here are some highlights from last week's FCC data drop.

FOES & CRITICS

• **Netflix** has complained the paid-peering deal it struck with Comcast was essentially extracted under duress (Comcast disputes this). The over-the-top video provider said the deal must be blocked, citing interconnection issues that, in Netflix's view, should be part of the network-neutrality conversation. In a voluminous filing, Netflix said the deal is a fundamental threat to the online video distributor (OVD) industry, creating a company with the size and motive to foreclose online competition and slow or degrade traffic for customers who have paid for speed and access.

• **Free Press, Public Knowledge, Common Cause**, **Consumers Union** and about 60 other groups said the deal would create a gatekeeper with too much control over the future of the Internet. They said the merger would "undermine" ownership and content diversity and that "no amount of promises or conditions would be good enough to assuage concerns about this merger." (See "Deal or No Deal,").

• **Dish Network**, the No. 2 U.S. satellite-TV provider, said the rosy picture Comcast and Time Warner Cable have painted of the merger is misleading. The real picture, Dish said, would show a company with the incentive and ability to sabotage OVD and traditional video rivals. No conditions would remedy the "serious competitive harms" of the merger, Dish has said.

• Programmer **WeatherNation TV** wants the deal blocked because it said the company would have the ability to foreclose competition in the meteorological programming space — Comcast has a 25% interest in The Weather Co., owner of The Weather Channel. It pointed out that The Weather Co. is already both WeatherNation's chief competition and a key supplier of video graphics and data feeds.

• **Sinclair Broadcast Group** said the FCC must either put conditions on the Comcast-Time Warner Cable merger — including retransmission-consent conditions (see chart) — deregulate broadcasters or deny the merger, a combination it said could drive TV stations out of business. Sinclair has said the deal would create a company with "unprecedented" horizontal and vertical scale, which it could use to raise prices, reduce competition, and diminish localism, diversity and consumer choice.

• No amount of conditions are enough for the **Writers Guild of America West**, the union representing TV and online writers, including news writers. "We have reached a critical juncture in the history of the media, broadband and telecommunications industries," WGAW president Chris Keyser said of the filing last week. "The FCC must put a stop to this spate of merger madness that threatens every principle of free market economics we deem important."

FANS

• **Urban League of Springfield, Mass**., president Henry Thomas praised Comcast's Internet Essentials low-cost broadband program and urged the FCC to approve the deal. "It is hard to find a more effective program to bring Internet to those young people who depend on access for school work more and more every day," he said, welcoming expansion to former TWC systems once the deal is approved.

• The **Democratic Municipal Officials Association** weighed in to support the deal, even though Comcast executive vice president David Cohen has said he does not think municipal broadband is the best way to bridge the digital divide. "This transaction stands to produce new investment in infrastructure that will enhance video and Internet service in our communities," DMO president Cindy Lerner said.

• **TiVo** cited Comcast's history of working with it on retail set-top innovation as a reason it supports the deal. "TiVo believes that approval of the above-referenced transaction should benefit consumers that wish to use retail devices to access their pay TV programming," the digital video recorder manufacturer said.

• The **Competitive Enterprise Institute,** a libertarian public-policy organization, said the FCC should approve the deal without conditions. The group said it doesn't know whether the deal will provide all the benefits economic theory suggests, but it said it is confident that "the upside of the deal for consumers is far more promising than its downside is worrisome."

• **Crown Media Holdings**, parent of **Hallmark Channel** and **Hallmark Movie Channel**, is one programmer that is fine with the deal. In a letter to FCC chairman Tom Wheeler that was entered into the docket, Crown Media president Bill Abbott said Comcast has been "one of the most supportive distributors of unaffiliated and independent programmers," and that he believes Comcast- TWC will be a net positive for Hallmark and other independent programmers.

FENCE-SITTERS

• The **National Association of Broadcasters** — in a pitched battle with cable operators over retransmission consent, but counting Comcast's NBCUniversal among its members — steered a middle course. It did not comment on the substance of the deal, but signaled that Comcast was currently in discussions with some broadcast groups over their concerns.

• The **New York Public Service Commission** is conducting its own review, and said it was not ready to take a side. But it also said it thought Comcast and Time Warner Cable were low-balling the potential for both horizontal and vertical harms.

• **Discovery Communications** in July hired a pair of Capitol Hill veterans to lobby on the deal. "Consolidation raises some real issues here in the U.S. and everywhere in the world," CEO David Zaslav said at a Sanford Bernstein investor conference in May. A Discovery source said company execs were to meet with FCC officials last week to talk about the transaction, but that it was not filing comments supporting or opposing it at this time. The source said Discovery could join in reply comments, which are due Sept. 23.

TAGS:

- See more at: http://www.multichannel.com/news/distribution/weighing-mega-merger/383465#sthash.VxA5HAkO.dpuf

Multichannel News – September 1, 2014

Wheeler’s Need for Speed FCC CHAIR

FCC CHAIR OUTLINES AGENDA TO STIMULATE BROADBAND COMPETITION

9/08/2014 8:00 AM Eastern

By: **John Eggerton**

TakeAway

Suggesting that cable operators have been sluggish to deploy Gigabit Internet speeds, FCC chairman Tom Wheeler last week released his plan to ensure cable ops and other ISPs provide “meaningfully” competitive highspeed broadband services.

WASHINGTON — Federal Communications Commission chairman Tom Wheeler last week planted his stake in the ground for promoting competitive high-speed Internet service, saying the agency’s current 4 Megabitsper-second standard represented yesterday’s broadband and that wired broadband needs more “meaningful” competition.

Wheeler outlined a four-point agenda that he said would be the commission’s North Star for ensuring that meaningful competition. While he said he preferred incentivizing competition, he made it clear he would regulate if necessary, suggesting that could include pre-empting state limits on municipal broadband and using net-neutrality rules to advance the agenda.

That overarching outline came in a Sept. 4 speech at startup incubator 1776 in Washington, D.C. (its founding partners include Comcast Business and Microsoft), at which Wheeler said he did not come to criticize, but laid into cable operators and other ISPs nonetheless.

The speech was partly a recap of FCC actions and a restatement of his regulatory philosophy, but could also be interpreted as a signal to his critics on the left that he was committed to their ideals of an open Internet and broadband competition. It was also a synthesis of the FCC’s increasing focus on speed as the new deployment metric.

He suggested it took competition from Google Fiber and others to get cable to start boosting speeds. “[M]obile broadband is just not a full substitute for fixed broadband,” he said.

But while positive, cable’s Gigabit push is not pervasive, he said. “We can only conclude that, while competition has driven broadband deployment, it has not yet done so in a way that necessarily provides competitive choices for most Americans.”

Wheeler said even where competition exists, the difficulty of switching between carriers, such as early-termination fees and equipment-rental costs, reduced its effectiveness.

“And, if those disincentives to competition weren’t enough,” he added, “the media is full of stories of consumers’ struggles to get ISPs to allow them to drop service.”

Wheeler as much as said it would be the FCC’s mission to bring competition up to speed, suggesting 25 Mbps would be the new “table stakes” in communications.

He also issued a network-neutrality warning. “[L]astmile power cannot be a lever for gaining an unfair advantage,” he said. “Second, rules of the road can provide guidance to all players and, by restraining future actions that would harm the public interest, incent more investment and more innovation.”

Wheeler said the FCC will adhere to the following four principles of his “Agenda for Broadband Competition:”

• “Where competition exists, the commission will protect it.” Examples are the FCC’s signal it was not likely to approve the Sprint-T-Mobile merger and the way the FCC is setting up IP transition trials so that “changes in network technology should not be a license to limit competition.”

• “Where greater competition can exist, we will encourage it.” Wheeler cited reserving low-band spectrum in the broadcast incentive auction for competitors to the top two wireless carriers and the “entire open-Internet proceeding” as a way to prevent barriers that could be erected by last-mile providers (ISPs).

• “Where meaningful competition is not available, the commission will work to create it.” That includes expanding unlicensed wireless, which the FCC has sought to do in various bands; however, it also includes Wheeler’s support of pre-empting state laws limiting municipal broadband (see Rules).

• “Where competition cannot be expected to exist, we must shoulder the responsibility of promoting the deployment of broadband.” He recferenced universal service efforts to bring better broadband to rural areas to prevent the creation of a new digital “speed” divide.

The National Cable & Telecommunications Association’s response to Wheeler’s speech about spurring competition was: Bring it on (and don’t impede it with a Title II classification of ISPs). “The cable industry is committed to meeting consumer demand for a world-class Internet experience and competing in the marketplace with all wired and wireless Internet providers,” the NCTA said, citing cable’s investment of $210 billion in broadband since 1996 and the availability of 100-Mbps Internet service.

- See more at: http://www.multichannel.com/wheeler-s-need-speed-fcc-chair/383591#sthash.431mTFuq.dpuf

Multichannel News – September 8, 2014

Title II, Round II

Net Neutrality Friends, Foes Gather Forces In Confusing Lobbying Battle

9/08/2014 8:00 AM Eastern

By: John Eggerton

WASHINGTON — A war of words is erupting on the very medium at the center of one of the biggest debates in this digital age: Who controls the Internet?

Should the Internet in the U.S. be allowed to continue to thrive as a marketplace of unfettered ideas and commerce, or should it be regulated like a public utility to keep big online companies from crushing competitors and upstarts?

The Web this month will be a supercharged battlefield, with competing sites trying to recruit supporters to both sides of the debate over Internet neutrality, as the Federal Communications Commission prepares to weigh in with new rules.

Internet activists have designated Wednesday (Sept. 10) as “Internet Slowdown Day.” Websites run by those who disagree with FCC chairman Tom Wheeler’s proposed new network-neutrality rules, buttressed by the agency’s authority under Section 706 of the Telecommunications Act, are encouraged to participate in a symbolic Internet slowdown, simulating on-screen “loading” icons to show what screens would look like with his plan. (See sidebar, “The Slow Lane.”) They have said that Section 706 would usher in an era of “fast” and “slow” lanes on the Internet.

Cable operators are fighting off “common carrier” reclassification under Title II of the Telecom Act — a drastic- but-real possibility — arguing that tough, utility-like restrictions would strangle the robust growth of the Internet as a conduit of commerce and information, making it a “net disaster, not net neutrality.”

Not surprisingly, slogans and hyperbole are easier to get behind than the complicated technology and legal issues of how networks have to be managed. It's much easier to chant "Free the 'Net" than try to wrap your head around payments to edge providers, or what part of the statute applies in what way to make them legally sustainable.

There are multiple layers to the debate — political, technical and legal — with politics threatening to trump the other two facets.

The technical issues revolve around how network traffic management is handled today, versus a decade ago when the FCC first outlined its net neutrality rules. In effect, they are: What are Internet-service providers technically capable of doing, and are they harming other companies in any way that would threaten a free market?

"You would think that the technical would outweigh politics or public opinion, but I don't think anyone can rely on that," a cable-system executive familiar with the issue said.

That could put net neutrality in the same general category as the 2011 debate over a pair of proposed online anti-piracy bills, known in the House as the Stop Online Piracy Act (SOPA) and in the Senate as the PROTECT IP Act (PIPA). The laws appeared to be on their way to passage, but were bulldozed by a wave of Silicon Valley pushback that caught both Republicans and Democrats by surprise.

The FCC has received more than 1 million comments on network neutrality — and has vowed to review every one (the word "every" is bolded on the FCC website) — before it decides.

So, as both sides make their emotional pitches on the political front, and the issue is framed by a *Colbert Report* parody or catchy catchphrase, the FCC will need to do the grunt work of balancing the costs and benefits of a Section 706 approach vs. the consequences, intended and perhaps unintended, of Title II.

It wasn't supposed to happen like this. Cable operators accepted the FCC's Open Internet regulations back in 2010 as part of a compromise that avoided Title II reclassification. They are also generally on board with Wheeler's proposed Section 706 approach this time around, which would allow for commercially reasonable discrimination as a way to defend the rules from another probable court challenge. (The original network neutrality rules, adopted in 2010, were struck down by a U.S. Appeals Court in January.)

Wheeler's proposal is, or at least was, to restore the anti-blocking rule essentially intact, to recraft the antidiscrimination rule so that it is not a blanket ban and to beef up the transparency rule to make sure Web users know how networks were being managed.

To do that, he would use the FCC's authority under Section 706 of the Telecommunications Act, which empowers the agency to regulate broadband in the interests of getting service to all Americans in a reasonable and timely fashion. Unreasonable discrimination and blocking could discourage adoption, and thus are subject to regulation.

But Wheeler's proposal created a firestorm of pushback from Open Internet activists who saw the "commercially reasonable" standard as a path to Internet "fast" and "slow" lanes, an argument helped by over-the-top video titan Netflix's complaints about paid peering deals with Comcast that brought middle-mile issues into the middle of the net neutrality debate.

Wheeler has spent the past several months trying to convince those critics he has no intention to create or allow those fast and slow lanes. He has kept Title II on the table as an option and invoked it as a possibility.

And that's what has cable providers pushing back so hard, as they did in 2010, when then-FCC chairman Julius Genachowski essentially forced them to the negotiating table with the threat of Title II rules. That threat has remained in the background, likely one of the reasons there have been few complaints about networkneutrality violations since then.

Cable operators have argued it is not in their business interest to block or degrade websites, but it is clearly not in their political interest, with Title II on the shelf but still in reach of regulators.

The National Cable & Telecommunications Association was using its site last week to warn Web surfers of the “disaster” that Title II reclassification would be (see sidebar, “Net Disaster”) and launching an ad campaign warning of the dangers of regulating ISPs back to the “tone” age — as in telephone regulations from last century.

Elsewhere, other opponents of Title II classification launched an online “Don’t Break the Net” campaign Sept. 1 to get Web surfers to email Wheeler with the message that imposing Title II would be a big mistake.

“The FCC has better things to do than spend years fighting about Title II — like actually clearing barriers to competition and promoting investment in broadband,” said the coalition, whose members include the telco-backed TechFreedom, as well as small-government advocacy groups such as the Taxpayers Protection Alliance and Less Government.

The NCTA is not a member of the coalition, but it clearly sympathises with its message about the harms of Title II. The cable trade group has purchased digital and print ads in several Washington, D.C., publications and on local radio station WTOP, as well as a targeted national digital buy, to make that point.

The other side — net-neutrality activists Free Press, Demand Progress, and others — will try to make their point this Wednesday (Sept. 10) with what’s been billed as an “Internet Slowdown.”

The activists are calling on websites to blanket the ’Net with “loading icons”— those frustrating “chasing their tails” symbols of content still loading — to make the point about slow lanes. The goal is to drive calls and emails to lawmakers, but not actually to artificially slow down any content, which is what they said they are fighting against.

“Sites will employ icons that symbolize a slower Internet, but will not actually load more slowly,” Free Press, one of the groups helping organize the slowdown, said.

Why Sept. 10? Reply comments are due to the FCC Sept. 15 — and, at the pace they’re coming in, the total number of submissions is likely to be far in excess of 1 million.

“We chose Sept. 10 to kick off a week of action leading up to that deadline,” Free Press senior director of strategy Tim Karr said.

The Slow Lane

On Wednesday (Sept. 10), websites are being encouraged to participate in a symbolic Internet Slowdown, simulating those frustrating “loading” icons as a protest of FCC chairman Tom Wheeler’s proposed new network-neutrality rules.

“Millions already have spoken out against the FCC’s slow-lane scheme, but FCC chairman Tom Wheeler seems to think if he hides out in Washington the public will lose interest,” Free Press Action Fund President and CEO Craig Aaron said in announcing the protest. “But the public outcry is only growing louder — and the Internet Slowdown will show millions more people what a world without real Net Neutrality would look like. If you claim to support the free and open Internet, you must pick a side in this battle.”

According to organizers, supporters of the effort at press time included: the American Civil Liberties Union, Common Cause, the Center for Media Justice, Color of Change, Daily Kos, Demand Progress, Democracy for America, **Democrats.com**, the Electronic Frontier Foundation, Engine Advocacy, Fight for the Future, the Free Press Action Fund, the Future of Music Coalition, Greenpeace USA, Move On, the National Hispanic Media Coalition, OpenMedia, Popular Resistance, the Progressive Change Campaign Committee and Rootstrikers.

Websites said to be willing to participate included Reddit, Mozilla, Kickstarter, Etsy and Wordpress.
— John Eggerton

‘Net Disaster’

The National Cable & Telecommunications Association last week launched a campaign to fight back against the tide of net neutrality activists pushing for Title II reclassification of Internet access.

NCTA calls Title II “net disaster, not net neutrality.”

Here, from its website, is its expanded version of that rallying cry.

“We can build an open Internet without resorting to public utility regulation. The FCC can act responsibly to foster the continued growth of the Net and prevent anti-competitive activity, or it can capitulate to extremist voices who seek to force a result that would inflict major collateral damage on the Internet economy, and ironically, fail to serve the very ends they seek.

“Let’s not abandon the virtuous cycle that is helping build faster networks for one that promises greater government control and stalled investment. Let’s choose a future that embraces progress, not potholes.”
— John Eggerton

- See more at: http://www.multichannel.com/title-ii-round-ii/383597#sthash.4uYusy9j.dpuf

Multichannel News – September 8, 2014

Cable-FCC Fight Brews Over Pre-emption

WHEELER SEEKS TO CHALLENGE STATE LAWS LIMITING MUNI BROADBAND

9/08/2014 8:00 AM Eastern

By: John Eggerton

TakeAway

Opponents are lining up to FCC chairman Tom Wheeler's move to pre-empt state laws limiting towns from building municipal broadband networks.

WASHINGTON — Cable operators and the Federal Communications Commission appear to be on a collision course over regulating municipal broadband operations.

FCC chairman Tom Wheeler staked out that territory as part of his overall plan to promote broadband price and service competition, and emphasized it in a policy speech last week. He branded state rules that limit municipal broadband operators as a tool of lobbyists trying to prevent such competition.

Having signaled that he was ready to take on those laws, the cities of Chattanooga, Tenn., and Wilson, N.C., gave Wheeler an opportunity by asking the FCC to step in to pre-empt state laws limiting municipal broadband operations. Cities have argued such laws are "artificial barriers" to broadband "investment, deployment, competition and innovation," as Madison, Wisc., said in its filing supporting pre-emption.

Now that the initial comments have been filed, the battle lines are drawn.

But the National Cable & Telecommunications Association, cable's main trade group, is not taking direct aim. In fact, it did not even file comments. "We don't file in every proceeding, and this was one we choose not to [file in]," an NCTA spokesman said.

The NCTA's two largest cable-operator members, Comcast and Time Warner Cable, are currently trying to steer their proposed merger through Wheeler's FCC, so they are perhaps unsurprisingly not interested in a public battle over municipal broadband regulations.

Comcast executive vice president David Cohen has said that as a former municipal official (he was the chief of staff to former Philadelphia Mayor Ed Rendell), he is not a fan of state legislatures limiting cities' ability to act. But he also does not think pre-empting those limits was the right way to advance broadband, he said.

"We've been supportive of public-private partnerships where tax dollars aren't competing against private investment capital," a Comcast spokesperson said, confirming the MSO had not filed comments in the proceeding. "In general, cities have extensive infrastructure needs like roads, bridges and schools, and we think, especially in times of fiscal tradeoffs, that taxpayer money should be focused on those needs rather than competing with the private sector."

Another reason cable operators don't have to take point on the fight is that they have some firepower already in their corner. The industry's allies include governors and state legislatures who think they should have the power to run their own states and make state laws.

The National Conference of State Legislatures, for example, said that FCC pre-emption, if it goes beyond Chattanooga and Wilson to become a general policy, could affect at least 21 states where it said regulators have enacted "safeguards on municipal networks to mitigate the pitfalls associated with entry."

The FCC must reject the petition, the National Governors Association said flatly.

Wheeler is looking to use the FCC's authority under Section 706 of the Telecommunications Act — the same authority buttressing his Internet-neutrality proposal (see cover story) — to justify stepping into the municipal broadband debate. With pre-emption, his goal is to remove impediments to more ubiquitous and affordable broadband services, roadblocks he ascribes to ISP lobbyists who have successfully prevented would-be competitors from entering the business.

The NGA countered by stating that Congress made clear in the 1996 Telecommunications Act that the FCC is prohibited from preemption "absent express authority."

The governors also dismissed cities' arguments that the FCC can step in. "Petitioners' statutory interpretation and legal legerdemain fail to identify the necessary language in Section 706 that would authorize the commission to preempt state law because it just does not exist," the NGA said in its filing.

Cable's biggest guns may be holstered, but that doesn't mean MSO interests aren't represented in the docket.

NetCompetition, a consortium whose members include the NCTA, Comcast and Time Warner Cable, was not shy about its problems with pre-empting state laws limiting municipal broadband. In its filing, the group said the principal problems are that the U.S. Supreme Court has signaled that such pre-emption would be unconstitutional and that the move would be anti-competitive in contravention of the FCC's "statutory purpose and legal mandate."

And again, with echoes of the net neutrality debate, NetCompetition chairman Scott Cleland said the Supreme Court has already rejected federal pre-emption of state prohibitions of telecommunications service, regulated under the Telecom Act's stricter Title II commoncarrier standard.

"If clear FCC Title II statutory language was insufficient to overcome states' constitutional rights, it is hard to see how the FCC's new-found Section 706 authority would be sufficient to trump the Supreme Court's defense of states' rights in the Constitution," he said.

- See more at: http://www.multichannel.com/cable-fcc-fight-brews-over-pre-emption/383600#sthash.0VSPMfq1.dpuf

Multichannel News – September 8, 2014

The Graying of the TV Viewer

9/08/2014 8:00 AM Eastern

By: R. Thomas Umstead

A new study on the rising age of television viewers, along with primetime ratings results from this summer's top cable networks, should cause programmers some concern.

The median age of viewers during the 2013-14 TV season has risen by 2.5 years, to 44, since the 2009-10 TV season, according to MoffettNathanson Research. Further, the research said, cable viewers have gotten 8% older in the past five years and are now a median age of 40.

Outside of the kids' networks, the survey said, the youngest-skewing networks were Nick at Nite (20.8 years), MTV2 (23.2), MTV (23.5) and Adult Swim (23.8). But even all of those networks are skewing older than they were during the 2009- 10 season, according to the report.

Those findings are consistent with viewership for the most-watched cable networks in primetime this summer. Seven of the top 10 networks posted double-digit declines among the younger 18-34 audience during the period of May 26 to Aug. 31, according to Nielsen. Only Fox News Channel and ESPN — both of which had significant live programming events/ features during the summer — posted increases in the youner demographic.

The top 10 cable networks didn't fare much better among total viewers, with six out of 10 posting year-to-year declines, but the decline in younger viewers is particularly notable.

While younger viewers are accessing programming on alternative platforms, the numbers show that the migration from traditional TV to other distribution outlets could be accelerating. These are the consumers cable needs to attract and secure to replace the older viewers as subscribers.

TAGS:

- See more at: http://www.multichannel.com/graying-tv-viewer/383605#sthash.Dec7EEuR.dpuf

Multichannel News – September 8, 2014

Trade Journal Links:

Comcast Confessions: when every call is a sales call
http://www.theverge.com/2014/7/28/5936959/comcast-confessions-when-every-call-is-a-sales-call

Why is the Cable Guy Always Late?
http://www.theverge.com/2014/8/4/5960251/comcast-confessions-why-the-cable-guy-is-always-late

This is Comcast's internal handbook for talking customers out of canceling service:
http://www.theverge.com/2014/8/4/5967255/this-is-comcasts-internal-handbook-for-talking-customers-out-of

And for some Thursday fun, check out their article on the number of f-bombs submitted via Net Neutrality comments (warning: LANGUAGE!):
http://www.theverge.com/2014/8/6/5974565/the-american-people-gave-exactly-4377-fucks-for-net-neutrality- enlightening??

Century Link Announces Super Fast Fiber Internet Speed?

http://www.twincities.com/technology/ci_26273323/centurylink-announces-super-fast-fiber-internet-speed?_requestid=347864

Is Comcast's Awful Service Grounds for Blocking the TWC Deal, Yes Actually

http://www.wetmachine.com/tales-of-the-sausage-factory/is-comcasts-awful-service-grounds-for-blocking-the-twc-deal-yes-actually/

ATT Agrees to Conditions with Feds in $48.5m Direct TV Purchase

http://nypost.com/2014/08/25/att-agrees-to-conditions-with-feds-in-48-5m-directv-purchase/

Subject: [Members] Common Cause: ALEC Backs Dangerous Comcast -- Time Warner Cable Merger Plan, Opposes Open Internet

http://www.commoncause.org/democracy-wire/alec-backs-dangerous-comcast-time-warner-cable-merger-plan.html

Comcast allegedly Trying to Block Century Link from Entering it's Territory

http://arstechnica.com/business/2014/08/comcast-allegedly-trying-to-block-centurylink-from-entering-its-territory http://apps.fcc.gov/ecfs/document/view?id=7521819945

Subject: [Members] Stop the Cap!: 52 Mayors Pledge Allegiance to Comcast's Merger Deal; Is Yours on the List?

All: Great article by Phil Dampier which includes a complete list of all the signers of this Comcast/TWC acquisition support letter including phone numbers. Check it out!

http://stopthecap.com/2014/08/26/52-mayors-pledge-allegiance-to-comcasts-merger-deal-is-yours-on-the-list/

Wilson Asks FCC to Override

http://www.newsobserver.com/2014/08/27/4101819_wilson-asks-fcc-to-override-nc.html?&rh=1

Austin Minnesota Releases Fiber Network Feasibility Study Results

http://www.muninetworks.org/content/austin-minnesota-releases-fiber-network-feasibility-study-results

How Big Telecom Smother City Run Broadband

http://www.publicintegrity.org/2014/08/28/15404/how-big-telecom-smothers-city-run-broadband

Comcast Tells Government that its Data Caps Aren't Actually Data Caps

http://arstechnica.com/business/2014/08/comcast-tells-government-that-its-data-caps-arent-actually-data-caps/

Comcast Still Pretending They Don't Have Data Caps

http://www.dslreports.com/shownews/Comcast-Still-Pretending-They-Dont-Have-Data-Caps-130217

Netflix Hand Delivers Petition to FCC Against Comcast Time Warner Cable Merger

http://venturebeat.com/2014/08/26/netflix-hand-delivers-petition-to-fcc-against-comcasttime-warner-cable-merger/

Comcast We Block Competition to Help the Poor

http://www.dslreports.com/shownews/Comcast-We-Block-Competitionto-Help-the-Poor-130233

Comcast Allegedly Trying to Block Century Link From Entering its Territory

http://arstechnica.com/business/2014/08/comcast-allegedly-trying-to-block-centurylink-from-entering-its-territory/

ATVA Launches Six Figure Local Choice Campaign

http://www.multichannel.com/news/national-regulation/atva-launches-six-figure-local-choice-ad-campaign/383413

Meet The Two Women Who Hold The Future Of The Internet In Their Hands

http://www.huffingtonpost.com/2014/09/02/fcc-net-neutrality_n_5737086.html

Subject: [Members] Mercury News: Public access television: It could thrive if Congress lifted restriction
http://www.mercurynews.com/opinion/ci_26413015/public-access-television-it-could-thrive-if-congress?source=rss

Proposed Comcast Time Warner Cable Charter Merger Swap Sales Spark Thousand of Filings at the FCC

http://www.bbknowledge.com/telecommunications/proposed-comcast-time-warner-cable-charter-mergerswapssales-spark-thousands-of-filings-at-the-fcc-responses-due-sept-23-4/

Cable Giants Seeking Mega-Merger Approval Shower Cuomo In Donations
http://www.bloomberg.com/news/2014-08-29/new-york-carries-big-stick-in-review-of-comcast-deal.html

Subject: [Members] Stop the Cap!: Special Report: Big Phone and Cable Companies Are Losing Your Calls to Rural America

All: Check out this excellent investigative piece by Phil Dampier of Stop the Cap! As we have all know deregulation is never the solution but reregulation and regulation of telecom provider and their services is the only answer. Way to go, Phil!

http://stopthecap.com/2014/08/28/special-report-big-phone-and-cable-companies-are-losing-your-calls-to-rural-america/

Can the FCC Clear the Way for Cities to Build Broadband Legal Fight Heats Up Over Agencies Powers

http://gigaom.com/2014/08/30/can-the-fcc-clear-the-way-for-cities-to-build-broadband-legal-fight-heats-up-over-agencys-powers/?

New York Carries Big Stick in Review of Comcast Deal

http://www.bloomberg.com/news/2014-08-29/new-york-carries-big-stick-in-review-of-comcast-deal.html

Subject: [Members] The Consumerist: Media Companies Afraid To Leave Public Comments Privately Tell FCC Why The Comcast/TWC Merger Stinks

http://consumerist.com/2014/09/02/media-companies-afraid-to-leave-public-comments-privately-tell-fcc-why-the-comcasttwc-merger-stinks/

Greatland Connections
Can you say Target?

http://www.prnewswire.com/news-releases/spinco-to-be-known-as-greatland-connections-inc-273763761.html

Another article on the name change:
http://www.dslreports.com/shownews/Source-CharterComcast-Spinoff-Named-Greatland-Connections-130304

Other articles.

http://www.nationaljournal.com/tech/netflix-supports-government-run-internet-20140902

http://www.bloombergview.com/articles/2014-09-02/how-amazon-plans-to-storm-cable-s-castle

http://www.dslreports.com/shownews/ATT-Cities-Shouldnt-Offer-Broadband-Because-We-Might-Later-130298

http://www.latimes.com/opinion/editorials/la-ed-comcast-broadband-20140902-story.html

http://www.oregonlive.com/silicon-forest/index.ssf/2014/09/comcast_offers_modest_rate_hik.html

http://www.dslreports.com/shownews/Comcast-TV-Everywhere-Now-Works-Over-All-Cellular-Networks-130296

Subject: [Members] Stop the Cap!: Castoff Comcast/Time Warner Customers: Say Hello to GreatLand Connections

Tim: So you won't be disappointed, your buddy Mike Willner is featured in Phil's article from this afternoon. Check it out!

http://stopthecap.com/2014/09/03/castoff-comcasttime-warner-customers-say-hello-to-greatland-connections/

Subject: [Members] The Consumerist: Media Companies Afraid To Leave Public Comments Privately Tell FCC Why The Comcast/TWC Merger Stinks

http://consumerist.com/2014/09/02/media-companies-afraid-to-leave-public-comments-privately-tell-fcc-why-the-comcasttwc-merger-stinks/

President Obama No Internet Fast Lanes

http://www.nytimes.com/2014/08/14/opinion/president-obama-no-internet-fast-lanes.html?partner=rssnyt&emc=rss&_r=2

FCC Pursues More Unlicensed WiFi Spectrum but Open Issues Remain

http://www.telecompetitor.com/fcc-pursues-more-unlicensed-wi-fi-spectrum-but-open-issues-remain/
Pay TV Lost 300,000 Subscribers in Second Quarter

http://www.dslreports.com/shownews/Pay-TV-Industry-Lost-300000-Subscribers-in-Second-Quarter-130098

The Internet is now Officially more Popular than Cable in the US

http://www.wired.com/2014/08/the-internet-is-now-officially-more-popular-than-cable-in-the-u-s/

http://arstechnica.com/business/2014/09/comcast-spinoff-greatland-connections-to-be-5th-largest-cable-company/

http://motherboard.vice.com/read/the-fccs-comcast-time-warner-cable-decision-will-reshape-broadband-in-america

http://www.telecompetitor.com/lrg-average-pay-tv-spending-up-36-since-2009/

http://www.adweek.com/news/television/netflix-sides-government-run-broadband-providers-159868?

http://www.politico.com/morningtech/0914/morningtech15172.html

http://www.fierceonlinevideo.com/story/netflix-sides-muni-broadband-quest-upend-state-laws/2014-09-02