

Cablefax Daily™

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What the Industry Reads First

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Pai's Presser: Commish says Title II Plan Includes Rate Regulation

Republican commish *Ajit Pai* told reporters Tues that claims that "President Obama's" plan for net neutrality doesn't include rate regulation are "flat out false." "The plan clearly states that the **FCC** can regulate rates that the Internet service providers charge for broadband Internet access or interconnection or transit. In short, for the core aspects of Internet services," said Pai in a news conference that was unusual in a couple different ways. First, there was the fact that a minority commissioner was holding a briefing going after the chmn's proposal in the FCC's meeting room. Second, there were the protestors who interrupted his news conference, unfurling a banner reading "85% of Republican Voters Support Net Neutrality" (a reference to a U of DE poll from Nov) and shouting "Represent the people!" The demonstrators were escorted out of the room, and Pai kept going—continuing to call FCC chmn *Tom Wheeler's* plan for an open Internet "*Obama's* plan." Wait, does he have some inside knowledge of whether the president influenced the draft order to be voted on at the FCC's Feb 26 open meeting? No, just what he's read in the media. "It strikes me as no coincidence that soon after [Obama's call for Title II] that we were delivered a document that according to virtually every publication I have read, including many of your own, mimics in essential details everything the president wanted," Pai said. Back to that rate regulation... Pai said the plan does state that the FCC won't engage in ex ante rate regulation. The Republican said that means only it won't set rates ahead of time, but could later. Under the plan, the FCC will apply sections of 201 and 202, including rate regulation provisions, to determine whether the prices for broadband are reasonable, according to Pai. "The only limit on the FCC's discretion to regulate rates is its own determination of whether rates are just and reasonable," he said, adding that the plan "goes out of its way" to say competition is limited, using the new 25Mbps definition of broadband to support the claim. Fellow GOP commish *Michael O'Rielly* called it "fauxbearance" in a statement, saying most of Title II will "apply right out of the box with more to come later." Usage-based pricing and data caps are subject to FCC regulation via a case-by-case review under the plans' Internet conduct standards, Pai said. "This means that consumers that use less data may end up subsidizing consumers that use more data," he said. Pai said the plan gives Washington "a blank check to decide how Internet service providers deploy and manage their networks," including giving the FCC say on when a broadband provider must establish physical intercon-

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nection points. No one besides FCC commissioners and staff have seen the plan, and they won't until after it's voted on. Pai joined other Republicans, including **House Communications** subcommittee chairman *Greg Walden* (R-OR), in calling for Wheeler to release the proposal to the public. Why can't he just post the plan on the web? Pai said he takes the FCC rules seriously, and a non-public document has to remain that way unless authorized to be disclosed by the chairman. Is this plan really 332 pages of regulation? No. It sounds like there are 8 pages of proposed rules. Then Pai said there are 79 pages detailing the provisions of the Communications Act and the regulations from which the FCC will or will not forbear. The rest of the plan presumably addresses the 4 million comments filed in the docket.

FCC Net Neutrality Vote: Rep *Marsha Blackburn* (R-TN) asked **FCC** chairman *Tom Wheeler* to delay the net neutrality vote slated for Feb 26, citing allegations that the White House may have pressured him to adopt Title II. "This was supposed to be an open process. We have watched the FCC go through a lengthy notice and comment period only to learn that the rules may have been written behind closed doors at the White House," Blackburn said. -- Sen *Dean Heller* (R-NV) introduced the **FCC** Process Reform bill, which would make sure the public knows exactly what the Commission is voting on before it votes. "In amending the rules, the public will know exactly what the FCC is voting on well before the vote. Right now, we don't even know what major decision like the FCC's net neutrality order says. How is that an example of solid rulemaking?" read a Heller statement.

Arris POV: **Arris** doesn't seem to be sweating **Charter's** announcement earlier last month that **Cisco** will be a key supplier of its new Worldbox set-top. Nor does it seem too worried over a report that **Humax** was selected as a 2nd vendor for the hybrid QAM/IP box that will feature downloadable conditional access and a cloud-based interface. At a **Goldman Sachs** investor conference Tues, Arris execs *David Potts* and *Bob Puccini* said Charter is a valuable customer but that it's expected that distributors would generally use 2 or 3 vendors for each of their products.

Cable Price Survey: The **FCC** Media Bureau has received a request under the Freedom of Information Act for certain data submitted to the FCC in connection with the annual cable TV price surveys for 2004-2010. The request was made by a U of Michigan professor, who said the data will be used for non-commercial academic research—particularly the competitive effects of deregulation in the market between 2005-2008 in 19 states (ie, reforms that allowed single state-wide franchises). The FCC has received a number of requests for confidential treatment of participant-submitted data. Accordingly, the Bureau is giving cable operators the opportunity to respond. Responses must be sent by Feb 19.

Newsmax Carriage: **Newsmax TV** will be added to more than 5 million **Verizon FiOS** households, which it said will boost distribution above the 40 million mark. The channel, which bills itself as independent news with "a heartland perspective," also has deals with **DISH**, **DirectTV** and **NCTC**. Newsmax TV's live stream is also available to approximately 100 million iOS and Android smartphone and OTT devices.

WiFi Innovation Act: Sens *Marco Rubio* (R-FL) and *Cory Booker* (D-NJ) reintroduced legislation to expand unlicensed spectrum use by requiring the FCC to test the feasibility of opening the upper 5 GHz band. The bill also was reintroduced in the House by Reps *Anna Eshoo* (D-CA), *Bob Latta* (R-OH) and others on both sides of the aisle. Cable has long pushed for more unlicensed spectrum in the 5 GHz band. "This bipartisan legislation provides a clear path forward for properly allocating a finite and increasingly necessary public resource and continues to establish the U.S. as a global leader in public Wi-Fi availability, speed, and scale," **NCTA** said Tues. **Public Knowledge** also is a fan, saying the bill provides "an excellent example of how bipartisan legislation on spectrum issues can work." What's more, the group likes that it includes a study to examine WiFi deployment in low-income communities.

DISH Challenge: **DISH** is going after **DirectTV** customers, telling them that if switching to DISH doesn't save them \$250, the company will give them \$250. DISH created a series of short videos asking people what they would do for \$250 (pulling out money from a tray full of live earthworms, etc). The message of the spots is "Don't do that. #DoEasy." DISH's promotional pricing requires a 24-month commitment with AutoPay and paperless billing.

Now in the Senate: **Commerce** chairman *John Thune* (R-SD) and **Sen Finance** ranking member *Ron Wyden* (D-OR) reintroduced the Internet Tax Freedom Forever Act. It's the Senate version of legislation that was already introduced this Congress in the House. The House passed the bill last session. The Senate also introduced its version of the FCC Reform Bill

Programming: **IFC** renewed "Portlandia" for seasons 6 and 7. -- **Funny or Die's** street game show "Billy on the Street

BUSINESS & FINANCE

with *Billy Eichner*” will come to truTV as part of a multi-layered deal with **Turner**. Seasons 1-3 aired on **Fuse**. “Billy on the Street” will begin airing on truTV with its 4th season later this year (**TBS** will present encores). Eichner is also committed to create pilots for potential truTV and **Adult Swim** series, as well as half-hour specials for TBS and truTV. Turner also gets the rights to the first 3 seasons of *Billy on the Street*. -- **Discovery Channel** acquired the domestic and intl distribution rights to Academy Award-winning dir *Louie Psihoyos*’ doc “Racing Extinction” after its world premiere at the Sundance Film Festival. In addition to the deal with Discovery, the documentary will have a 10 market, US theatrical run and special event screenings. The film, which exposes the hidden world of endangered species, bows on Discovery later this year. -- **TNT** will televise the 1st-ever **NBA** fashion show Sat, 6:30pm ET. The 1-hour show, executive produced by *LeBron James*’ **Springhill Production Company** and in association with Turner Sports and **IMG**, will feature a runway competition including *James Harden*, *Klay Thompson*, *Chandler Parsons*, *DeMarcus Cousins*, *Zach LaVine* and other NBA stars, along with supermodels and style experts. **Samsung** is the presenting sponsor.

People: **Music Choice** named former **Vevo** exec *Mic Fox* as dir, programming and strategy. Fox reports directly to COO *Christina Tancredi*.

Cablefax Daily Stockwatch

Company	02/10 Close	1-Day Ch	Company	02/10 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	87.82	0.57	COMMSCOPE:	25.98	0.12
DISH:	76.94	0.95	CONCURRENT:	5.90	(0.06)
ENTRAVISION:	6.78	(0.03)	CONVERGYS:	20.83	0.27
GRAY TELEVISION:	9.90	(0.14)	CSG SYSTEMS:	29.76	0.06
MEDIA GENERAL:	15.15	(0.02)	ECHOSTAR:	53.71	0.13
NEXSTAR:	52.15	0.18	GOOGLE:	536.94	9.11
SINCLAIR:	25.46	0.19	HARMONIC:	7.75	(0.01)
MSOS					
CABLEVISION:	19.95	(0.05)	INTEL:	33.70	0.77
CHARTER:	175.89	3.75	INTERACTIVE CORP:	60.25	0.27
COMCAST:	57.41	0.32	JDSU:	12.94	0.11
COMCAST SPCL:	57.00	0.33	LEVEL 3:	53.55	0.72
GCI:	14.57	0.03	MICROSOFT:	42.60	0.24
GRAHAM HOLDING:	955.80	(0.35)	NETFLIX:	453.95	10.88
LIBERTY BROADBAND:	49.93	0.34	NIELSEN:	43.87	0.44
LIBERTY GLOBAL:	48.88	0.34	RENTRAK:	54.64	(0.59)
SHAW COMM:	23.68	0.06	SEACHANGE:	7.20	0.02
SHENTEL:	29.74	0.33	SONY:	26.06	0.37
SHENTEL:	29.74	0.33	SPRINT NEXTEL:	4.92	0.05
TIME WARNER CABLE:	145.86	(0.01)	TIVO:	10.77	0.10
PROGRAMMING					
21ST CENTURY FOX:	34.46	0.41	UNIVERSAL ELEC:	64.51	0.56
AMC NETWORKS:	68.31	0.31	VONAGE:	4.32	0.01
CBS:	57.00	0.24	YAHOO:	43.07	0.50
CROWN:	3.34	(0.01)	TELCOS		
DISCOVERY:	30.84	0.79	AT&T:	34.85	0.21
DISNEY:	101.92	0.19	CENTURYLINK:	40.18	0.51
GRUPO TELEVISIA:	33.67	0.44	TDS:	26.25	0.15
HSN:	65.24	0.23	VERIZON:	49.51	0.42
LIONSGATE:	29.69	(0.07)	MARKET INDICES		
MSG:	78.58	1.50	DOW:	17868.76	139.55
SCRIPPS INT:	73.87	0.50	NASDAQ:	4787.65	61.63
STARZ:	30.70	0.56	S&P 500:	2068.59	21.85
TIME WARNER:	80.81	0.27			
VIACOM:	68.26	(0.15)			
WWE:	13.13	0.04			
TECHNOLOGY					
ADVANTAGE:	2.46	0.08			
AMDOCS:	49.77	0.24			
AMPHENOL:	55.74	0.94			
AOL:	44.83	0.59			
APPLE:	122.02	2.30			
ARRIS GROUP:	26.60	(0.5)			
AVID TECH:	13.29	(0.04)			
BLNDER TONGUE:	1.78	(0.1)			
BROADCOM:	44.68	1.31			
CISCO:	27.49	0.37			

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