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Wednesday — September 16, 2015

What the Industry Reads First

Volume 26 / No. 178

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Net Neutrality: FCC Defends Rules in Court Filing

The **FCC** finally filed its 218-page net neutrality brief with the **DC Court of Appeals** Mon night, the deadline to file. The rules, which reclassify broadband as a Title II service, went into effect in June. The order is being challenged by industry groups, including **NCTA** and **ACA**, and broadband providers in 7 different lawsuits. Oral arguments are scheduled for Dec 4. Asking the court to deny the petitions for review, the FCC argued that its rules are structured in a way that ensures ISPs deliver the Internet access they have promised and that the rules are focused on the threats to Internet openness using “a light-touch version of Title II.” Responding to the challengers’ argument that broadband can only be classified as an information service, the FCC said broadband offers consumers “a transmission service of ‘telecommunications’ that is functionally distinct from any ‘information service.’” That determination falls well within the agency’s authority to interpret and apply the Communications Act’s definition of “telecommunications service,” the Commission said. Opponents of the Open Internet rules claimed the FCC failed to consider the impact of the order on future broadband network investment. On the contrary, according to the FCC, it “expressly concluded that application of Title II, particularly as tailored by means of broad-ranging forbearance, would spur continued investment in both infrastructure and Internet content and applications—as the virtuous cycle forecasts.” As for arguments that ISPs made investments in the past on the assumption that the FCC wouldn’t reclassify broadband service, the FCC said broadband providers had “every reason” to foresee that it might use Title II in light of multiple Commission decisions and judicial opinions foreclosing other statutory options. Challengers of the rules claim the order violates their constitutional rights. The FCC’s response is that when supplying broadband services, the providers are not speaking but instead merely acting as conduits for the speech of others. “And even if First Amendment scrutiny applied, the rules easily pass muster. They are classic content-neutral regulations that have nothing to do with the suppression of speech, and survive any level of First Amendment scrutiny because they are carefully tailored to serve governmental interests of the highest order,” it said. Several challengers mentioned the 2002 Cable Modem Order, in which the FCC concluded that cable modem service is an information service. However, the broadband market and consumer expectations back then were very different than the data-driven Internet access market today, the agency said. “The heightened technical ability of broadband providers to act on their incentives to threaten Internet open-



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ness is another fact that was not present—and certainly not taken into account by the Commission—at the time of the Cable Modem Order.” The FCC emphasized that its rules don’t include any requirement of prior approval of rates, need to file tariffs, mandated unbundling of networks, need to ask permission before launching new products or government-mandated rate of return. Absent a majority of Title II’s statutory provisions, the order is not “heavy-handed, utility-style regulation,” the FCC said. Last Fri, a group of 15 business associations, including **The Telecom Industry Association, the US Chamber of Commerce** and **National Association of Manufacturers**, as well as legal experts and economists filed briefs with the DC Circuit to support the challengers, saying Title II reclassification could harm the civil rights community and is unlawful under the Communications Act.

Comcast Adds Smart Home Partners: Comcast continues to expand its smart home partner lineup. **Chamberlain MyQ** and **NETGEAR Arlo** will be the new 3rd party services that can be managed and controlled on the cloud-based Xfinity Home platform. Chamberlain’s MyQ is designed to allow Comcast subs to monitor and control their garage door from anywhere with the Xfinity Home smartphone app. And Netgear’s Arlo, a wire-free camera, seeks to allow subs to record and view live HD video. Comcast expects MyQ to be integrated later this month and Arlo by early next year. Earlier this year, the MSO announced it will integrate new partner devices from vendors including **August, Automatic, Cuff, Leo, Lutron, Rachio, SkyBell** and **Whistle**.

Bright House’s New DVR: Bright House launched a whole house DVR service dubbed Voyager that can be networked to up to 7 other cable boxes in the home. The new device allows recording of up to 6 shows at once and the ability to access these recordings on any cable box in the home. It also allows viewers to start watching a program in one room and finish it in another. Other pay-TV providers, including **DirecTV**, also provide DVR that offers the ability to access video program in different rooms.

CenturyLink’s Gigabit Expansion: The gigabit broadband competition has intensified with **CenturyLink’s** aggressive expansion of gigabit networks. The telecom provider claimed it now offers gigabit Internet service to residential and small business customers in parts of 17 states and, by the end of the year, would have more than 700K HHs across the country enabled with fiber-to-the-home technology that can deliver upload and download speeds of up to 1 Gbps. The company first launched gigabit service in Omaha in 2013. Almost all major cable ISPs are expanding their gigabit networks across their footprints.

TWC’s Green Initiative: Time Warner Cable is looking to reduce its carbon intensity by 30% by the end of 2016. The company is assessing its carbon intensity and focusing reduction efforts on fleet management and energy efficiency. In addition, TWC plans to complete its 1st Water Footprint Analysis with the goal of developing a water-usage reduction plan by 2016. While not a water-intensive business, TWC said it should do its part to reduce its impact. TWC announced it achieved a 38% carbon intensity reduction earlier this year.

Carriage: Fantasy Sports Net (FNTSY) and Fight Network, both owned by **Anthem Sports & Entertainment**, scored carriage agreements with **Buckeye CableSystem**, making the channels available to subs in northwest OH and southeast MI.

One World Sports Expands Distribution: As part of a larger agreement in Jan with **NCTC**, **One World Sports** added **Frankfort Plant Board** to its distribution list. The cable provider serves Frankfort, Franklin County and the surrounding central Kentucky area.

Research: In order to support their expectations of broadband experience, the majority of fixed line residential broadband users surveyed need a download speed of at least 10Mbps, said a new research by **Ovum**. The research, which combined a consumer survey with quantitative market data on the fixed broadband market in 30 countries, said the expansion of SD and HD video is driving the end-user experience, and hence the need for networks to be able to support high-quality video delivery. Ovum found Sweden scored the highest level of broadband experience of the 30 countries researched, followed by Romania and Canada. The US ranked #8, after Japan and South Korea. Regionally EU came out on top, followed by America, and then Asia Pacific, and Middle East and Africa. The analysis showed that levels and growth in broadband penetration weren’t the only drivers of an excellent experience. High penetration that was coupled with poorer perception of the broadband experience pulled some countries back.

BUSINESS & FINANCE

On the Circuit: Fox Networks Group evp and general counsel *Rita Tuzon* was named honorary co-chair for the 29th Annual **NAMIC** Conference (Sept 29-30) in NYC. -- The **NAMIC** Mid-Atlantic Lunch & Learn 2-part webinar series will be held on Thurs and the following Tues. **Cox** VA interim svp and regional manager *JD Myers II* will be the facilitator. The title is "Climbing the Corporate Ladder: One Step at a Time." Contact Pam Ford for details on registering: pford@ncta.com.

Programming: Discovery Channel's survival series "Naked and Afraid" returns with new episodes on Oct 4. -- **EI Rey** will celebrate Hispanic Heritage Month, which starts Tues and runs through Oct 15, with short films created by Latino independent filmmakers. The initiative is part of the **National Association of Latino Independent Producers'** Latino Lens Filmmaker Showcase. The films include "Darkness of Night," "Mateo," "Sin City: Zorro Girl in Dead Man's Alley."

People: **Ovation** tapped *William Marks* as vp, biz dev. He joined the net from OnCue as head of accounts. Originally an **Intel** streaming video platform, OnCue was sold to **Verizon** last year. -- *Jose Morales* was named vp, local marketing strategy at **Univision**, effective immediately. Morales was most recently vp of content and news dir for **Telemundo** 47 in NY. -- *Len Barlik*, evp and chief HR officer for **Cox**, joined **CTHRA's** board.

Cablefax Daily Stockwatch

Company	09/15 Close	1-Day Ch	Company	09/15 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DISH:	58.76	0.93	CONVERGYS:	23.10	0.33
ENTRAVISION:	7.41	0.23	CSG SYSTEMS:	30.32	0.43
GRAY TELEVISION:	13.30	1.56	ECHOSTAR:	44.08	0.50
MEDIA GENERAL:	10.42	0.44	GOOGLE:	635.14	11.90
NEXSTAR:	43.94	1.07	HARMONIC:	6.12	0.10
SINCLAIR:	27.59	0.71	INTEL:	29.73	0.34
TEGNA:	23.50	0.53	INTERACTIVE CORP:	70.32	1.89
			LEVEL 3:	45.55	0.59
MSOS			MICROSOFT:	43.98	0.94
CABLE ONE:	420.08	UNCH	NETFLIX:	99.16	3.47
CABLEVISION:	28.54	0.60	NIELSEN:	46.55	0.86
CHARTER:	188.51	3.94	RENTRAK:	47.36	0.14
COMCAST:	57.14	0.89	SEACHANGE:	6.30	0.06
COMCAST SPCL:	57.58	0.56	SEACHANGE:	6.30	0.06
GCI:	17.06	0.03	SONY:	25.84	(0.12)
LIBERTY BROADBAND:	54.74	0.55	SPRINT NEXTEL:	4.95	0.17
LIBERTY GLOBAL:	47.19	0.35	TIVO:	9.06	0.02
SHAW COMM:	19.39	0.07	UNIVERSAL ELEC:	45.55	0.80
SHENTEL:	39.54	0.26	VONAGE:	5.95	(0.01)
TIME WARNER CABLE:	189.79	2.73	YAHOO:	31.04	0.72
			TELCOS		
PROGRAMMING					
21ST CENTURY FOX:	26.57	0.25	AT&T:	32.86	0.31
AMC NETWORKS:	74.14	1.80	CENTURYLINK:	26.47	0.40
CBS:	43.76	0.48	FRONTIER COMMUNICATIONS :	5.32	0.10
CROWN:	5.09	(0.07)	TDS:	26.50	0.19
DISCOVERY:	26.99	0.42	VERIZON:	46.37	0.72
DISNEY:	103.43	(0.39)	MARKET INDICES		
GRUPO TELEVISIA:	28.87	0.35	DOW:	16599.85	228.89
HSN:	58.10	0.25	NASDAQ:	4860.52	54.76
LIONSGATE:	38.51	0.58	S&P 500:	1978.09	25.06
MSG:	75.60	1.96			
SCRIPPS INT:	53.08	0.46			
STARZ:	38.83	0.57			
TIME WARNER:	69.99	0.36			
VIACOM:	45.61	0.80			
WWE:	19.14	(0.79)			
TECHNOLOGY					
ADDVANTAGE:	2.30	(0.08)			
AMDOCS:	57.72	0.50			
AMPHENOL:	52.28	0.77			
APPLE:	116.28	0.97			
ARRIS GROUP:	27.57	0.10			
AVID TECH:	8.69	(0.05)			
BLNDER TONGUE:	0.55	0.03			
BROADCOM:	53.81	0.57			
CISCO:	25.98	0.28			
COMMSCOPE:	25.57	(0.01)			
CONCURRENT:	5.01	0.03			

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