

# Cablefax Daily™

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What the Industry Reads First

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## Spending Bill: Plenty of Industry Issues Hop on the Omnibus

There's something for everyone in the \$1.1 trillion spending bill and \$629 billion tax break package rolled out late Tues, cable included. When the House votes on the 2000+ page measure Fri, they won't just be voting on funding the govt and federal agencies. If everything stays as is, cable will get good news on 2 tax issues—bonus depreciation and film & tax credits. The tax deal would extend special expensing rules for certain film and TV productions through 2016 (in general, only the first \$15mln of costs may be expensed). Another provision extends and modifies bonus depreciation for property acquired and placed in service during 2015 through 2019. It lets companies deduct half the cost of some capital equipment purchases immediately instead of over many years. **UBS** analysts estimated that **CenturyLink** would be the largest near-term beneficiary, along with **Frontier, Verizon, AT&T** and **Windstream**. "Cable... would also benefit, but the impact is less material," UBS said. The must-pass legislation also extends the Internet Tax Freedom Act until Oct 2016—a move that became necessary as it doesn't appear the Senate will vote on extending the ban on state and local taxes for Internet access before leaving for the holidays. Broadcasters scored a victory with the spending bill containing language to grandfather in joint sales agreements that were in effect as of March 31, 2014. The House version of the omnibus bill gives those broadcasters until Sept 30, 2025 to unwind those deals. An **FCC** vote on how JSAs apply to media ownership rules would have required those agreements to be unwound by the end of next year. The Cybersecurity Act of 2015 is also included in the massive spending bill. It makes it easier for companies to voluntarily share cyber threat data with the **Dept of Homeland Security** by extending liability protection to info shared in accordance with the bill's provisions. **Free Press** and **Public Knowledge** cheered that provisions to undercut the FCC's Open Internet order are absent from the bill.

**AMC vs Small Guys:** With a Dec 31 contract expiration fast approaching, **NCTC** and **ACA** members have briefed the **FCC** on renewal negotiations with **AMC Networks**. NCTC said that 62 member companies have already notified more than 910K subs of their intent to drop AMCN, with more expected to in the coming days. "AMCN has demanded acceptance of a highly unfavorable deal, including the forced carriage of unwanted programming networks and discriminatory pricing, and engaged in a number of unfair and egregious negotiating tactics designed to coerce NCTC members into accepting it," the groups said in a joint ex parte. "NCTC members serving more than a million subscribers are poised not

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to renew their deal with AMCN, and each day more NCTC members are considering discontinuing carriage.” Even after NCTC reached a deal last year with Viacom, 70 members, including **Vyve Broadband**, opted not to continue carriage of **MTV, Comedy Central** and other Viacom nets. NCTC said AMCN has refused to provide it with an unbundled list of prices on a per channel basis and is seeking twice the rate it charges other operators. The co-op also claimed AMCN wants members to pay for total number of video subs instead of the number of subs receiving each service. AMCN, which has ran crawls warning subs of the potential loss of programming and launched keepamcnetworks.com, has said it’s committed to continuing to negotiate with NCTC. “We have extraordinarily high regard for the NCTC and for its members,” it said in a statement. “We have long supported smaller cable operators, and the particular challenges and considerations that they face in the service of their markets. We will continue to endeavor to do everything we can to make them successful.”

**Small Biz Exemption:** The **FCC** announced late Tues that it will extend by one year an exemption for ISPs with 100K or fewer subs from the Open Internet order’s transparency rules. The extension provides “a reasonable period to assess the burden associated with the enhancements to the transparency rule,” which won’t be known until after the Paperwork Reduction Act (PRA) process is completed, chmn *Tom Wheeler* said in a statement. It would be premature to end the temporary exemption until the Consumer and Governmental Affairs Bureau has had sufficient time to review the burden through the PRA process, he said. He noted all providers of broadband providers, including small providers, are already subject to the existing transparency rules adopted in 2010. The Bureau’s findings will be presented to the full Commission next Dec. Republican commish *Michael O’Rielly* wasn’t pleased. Temporarily extending the small ISP exemption is “a monumental mistake in judgment and a missed opportunity to restore a bit of credibility and rationality,” he said. Small providers shouldn’t have to comply now or in the future with “burdensome requirements that divert limited resources from broadband deployment and provide no real value to consumers,” he said. Furthermore, O’Rielly claimed he’s precluded from voting on the item because the Commission delegated it to the Bureau. While **ACA** believes “the record supported a permanent exemption,” it’s pleased with the 1-year extension. “ACA looks forward to working with the FCC during the next year as it fleshes out and seeks clearance for its enhanced transparency requirements from the Office of Management and Budget under the Paperwork Reduction Act,” pres/CEO *Matt Polka* said in a statement.

**Debate Ratings:** They might have been up against **NBC’s** “The Voice” finale and “Adele Live in New York City,” but GOP presidential hopefuls still brought in 18mln viewers for their debate on **CNN**, according to **Nielsen Fast Nationals**. That makes it the 3rd most-watched presidential primary debate ever, behind **Fox News’** Aug debate (24mln) and CNN’s Sept debate (23mln). In case you’re wondering, NBC’s Voice snagged 12.6mln viewers Tues night. CNN’s undercard debate averaged 5.7mln total viewers earlier Tues evening. On the streaming side, CNN said it had at least 3.1mln live streams.

**TV Disruption: Needham’s Laura Martin** has long been skeptical of the business model for digital. In a new report, Martin and her team pegs revenue paid to US TV content companies per person per hour at 30 cents in the linear ecosystem. Compare that to **Netflix**, which they calculate to be 11 cents, **YouTube** (3 cents) and **MCNs** (1 cent). “It is unlikely that any digital competitor can disrupt the TV ecosystem because the economics are too disparate,” Needham concludes. “Disruption, if it happens, is far more likely to come from the incumbent TV content creators who undermine their own business model. Ad blocking makes digital video competitors less threatening in the future than in the past.” The key for content companies is to maximize each platform. The report includes a case study for **WWE’s** OTT network, which the analysts highlighted because the brand creates unique content for each platform, including mobile. On the other hand, they note, that when identical content goes on **Netflix**, it teaches consumers to pay a lower price for the same quality of long-form premium content. “Putting identical products at both **Nordstrom** and **Walmart** undermines pricing power,” Martin wrote.

**Bomb Threat: Comcast’s** Colorado Springs call center was evacuated for several hours Wed following a bomb threat. The MSO said all customer calls were re-routed. “Our employees’ safety is our number one priority,” a Comcast rep said. A little after 4pm ET, Comcast said it had received word that the center is safe and cleared for re-entry. There were no details immediately on the nature of the threat, which comes 1 day after L.A. shutdown 900 schools following an email threat.

**Akamai Report:** Content delivery network vendor **Akamai Technologies’** Q3, 2015 State of the Internet Report released Wed found that despite noticeable decreases in broadband adoption levels in 3Q, South Korea led the world again across the 10 Mbps, 15 Mbps, and 25 Mbps tiers, with adoption rates of 68%, 45%, and 24%, respectively. Global 10 Mbps, 15 Mbps, and 25 Mbps broadband adoption grew modestly in 3Q, posting gains of 2.4%, 5.3%, and 6.3% at each thresh-

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old and reaching adoption levels of 27%, 15%, and 5.2%, respectively. In the US, 44 of all 51 states saw average connection speeds above the 10 Mbps threshold, compared with 42 in 2Q. See the full story at Cablefax.com

**Powell Goes to Tuck:** NCTA pres/CEO Michael Powell will present at the SCTE/ISBE (SCTE's global brand) Leadership Institute at Tuck Executive Education at Dartmouth April 17-22. Powell is expected to provide legal and regulatory perspectives, followed by a Q&A with program participants.

**Programming:** AXS TV acquired the rights to UK mockumentary series "Hoff the Record," which features David Hasselhoff playing a fictionalized version of himself. The "Baywatch" and "Knight Rider" star finds himself surrounded by "cheeky British comedy." It'll debut on AXS in early spring. -- Syfy will air its 21st annual New Year's Eve "The Twilight Zone" marathon starting Dec 30 through Jan 3. The 87-hour marathon features all 156 eps of Rod Serling's TV series in chronological order and in HD.

**People:** A+E Nets announced 2 promotions on pres/CEO Nancy Dubuc's exec team. Dan Suratt, former head of digital media & business development, becomes pres, corporate development, strategy and investments. Sean Cohan, who heads the international division, will be pres, international and digital media. It's all effective Jan 1. Suratt will report to CFO David Granville-Smith; Cohan will still report to Dubuc.

## Cablefax Daily Stockwatch

Company	12/16 Close	1-Day Ch	Company	12/16 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DISH:	59.16	1.07	CSG SYSTEMS:	35.33	(0.13)
ENTRAVISION:	7.80	0.02	ECHOSTAR:	37.72	0.71
GRAY TELEVISION:	15.83	0.65	GOOGLE:	758.43	15.03
MEDIA GENERAL:	15.36	0.46	HARMONIC:	4.30	(0.05)
NEXSTAR:	57.78	3.75	INTEL:	35.28	0.10
SINCLAIR:	32.94	1.10	INTERACTIVE CORP:	62.46	1.39
TEGNA:	26.59	0.89	LEVEL 3:	52.67	1.61
<b>MSOS</b>					
CABLE ONE:	437.89	7.57	MICROSOFT:	56.14	0.94
CABLEVISION:	31.20	0.92	NETFLIX:	122.62	4.02
CHARTER:	183.58	5.33	NIELSEN:	46.97	0.89
COMCAST:	58.69	0.94	RENTRAK:	44.99	0.57
GCI:	19.14	0.14	SEACHANGE:	6.93	0.07
LIBERTY BROADBAND:	51.58	1.90	SONY:	25.24	0.74
LIBERTY GLOBAL:	41.18	1.18	SPRINT NEXTEL:	3.69	0.16
SHAW COMM:	19.57	0.03	TIVO:	8.83	0.12
SHENTEL:	44.54	0.23	UNIVERSAL ELEC:	50.79	1.23
TIME WARNER CABLE:	185.24	4.16	VONAGE:	5.86	0.12
<b>PROGRAMMING</b>					
21ST CENTURY FOX:	27.89	0.55	YAHOO:	33.79	0.76
AMC NETWORKS:	78.21	(0.25)	<b>TELCOS</b>		
CBS:	47.44	0.61	AT&T:	34.40	0.59
CROWN:	5.25	0.14	CENTURYLINK:	26.11	0.77
DISCOVERY:	27.18	0.66	FRONTIER:	4.73	0.21
DISNEY:	113.79	1.63	TDS:	26.77	0.49
GRUPO TELEVISA:	28.23	0.66	VERIZON:	46.51	0.96
HSN:	51.67	0.86	<b>MARKET INDICES</b>		
LIONSGATE:	34.34	(0.31)	DOW:	17749.09	224.18
MSG NETWORKS:	20.75	0.52	NASDAQ:	5071.13	75.77
SCRIPPS INT:	55.04	1.45	S&P 500:	2073.07	29.66
STARZ:	34.15	0.99			
TIME WARNER:	65.90	1.19			
VIACOM:	43.61	0.22			
WWE:	17.52	0.81			
<b>TECHNOLOGY</b>					
ADVANTAGE:	1.85	0.07			
AMDOCS:	55.90	0.35			
AMPHENOL:	52.88	0.45			
APPLE:	111.34	0.85			
ARRIS GROUP:	30.21	(0.18)			
AVID TECH:	6.28	0.01			
BLNDER TONGUE:	0.39	0.01			
BROADCOM:	57.15	0.18			
CISCO:	27.23	0.38			
COMMSCOPE:	25.36	0.18			
CONCURRENT:	5.00	0.07			
CONVERGYS:	26.39	0.11			

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 CONTENT FIRST

## Think about that for a minute...

### Alternate Scenarios

Commentary by Steve Effros

Now that the DC Court of Appeals has heard oral arguments in the FCC “net neutrality” case, we’re seeing reams of “analysis” on how folks think the court is going to decide. Let’s make it very simple; I don’t know. They don’t know. Some time ago I said this is one of those 50/50 cases, where the court could go in very different directions for very different reasons having nothing substantive to do with the validity or appropriateness of the rules themselves. That’s still the case, and no matter what they decide the odds are very good that there will be an appeal to the Supreme Court, so this is all far from over.

Let’s remember that this case is really about the Commission’s jurisdiction and latitude in establishing rules by an “expert agency.” It’s not about “net neutrality.” So the only way I can think of to reasonably analyze where things are going is to offer a few alternate scenarios.

The first, and one that seems to be bolstered by the oral arguments, is that the decision will be split and muddled. Just what we need! The Commission’s ability to declare wireline broadband a common carrier under Title II of the Communications Act could be upheld, but at the same time the ability to call wireless broadband service subject to Title II might be thrown out! This could mean that the same company, say AT&T, that offers both wired and wireless broadband would be providing essentially the same service to customers but be regulated under two entirely different sections of the rules! A muddled mess.

Equally likely, the ruling could allow common carrier regulation but in the same breath point out to the Commission that they cannot, under those rules, prohibit things like “zero rating.” In other words, some companies could legally buy “better” service to customers than others... the antithesis of what the “net neutrality” folks



were shooting for when they politically forced the Title II designation on the Commission.

Alternatively, the court could simply cite the “Chevron Doctrine,” which says the “Expert Agency” has broad latitude to decide what the statute means, and the court stays out of it completely. There’s no question that would be appealed, and given recent signals by the Supreme Court that they may think federal agencies have taken that latitude too far, the Supremes could use this case as the one to modify or change that doctrine, since it’s clear that Congress is non-functional at the moment, and the court may decide it’s time to step in. That, too, would be antithetical to what the “public interest” groups had hoped to achieve.

Of course there are lots of other ways this decision could go, and I reiterate that anyone who says they “know” takes themselves way too seriously. But I’m willing to offer one guess: however it goes, it’s going to be a mess. Even if the Commission simply wins the whole case and the rules stand as they are, the next step would be implementation and enforcement, and the growing trend, for instance, of offering subsidized services (akin to “free shipping”) is going to make it darn near impossible for the Commission to achieve the “pure” neutrality goals of proponents while at the same time pull itself out of the legal mire.

Of course we all warned them: “...you don’t know how deep a puddle is until you step in it.” So the result of this first court decision, however it goes, will only tell us about how deep.

*Steve*

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*(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry. His views do not necessarily reflect the views of Cablefax.)*

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