

# Cablefax Daily™

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What the Industry Reads First

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## Point of Order: NY Rep Calls for PSC Investigation into Charter Over ACCN

ESPN-owned ACC Network had a relatively smooth launch last Thursday, but one New York congressman isn't happy with one of its distributors. Rep Anthony Brindisi (D-NY) urged the NY PSC to investigate Charter over whether there is a potential rate increase connected to ACC Net. The issue, as **Cablefax** reported last week, is that Charter customers in legacy Time Warner Cable packages don't receive the new channel. To get ACC Net, they must upgrade to a Charter Spectrum package, which could end up costing some customers more money. Brindisi wants to know if the potential rate hike violates the terms of Charter's 2016 merger agreement with the state. Brindisi, whose district includes Utica, Rome, Cortland and Binghamton, referenced a Syracuse.com report that said nearly one-fifth of Spectrum customers won't get ACC Net for free. However, Charter said that changes in price from legacy TWC to Spectrum packages would actually save money for the majority of its customers. "We're committed to providing customers with superior products at a great value and that is why we are pleased to be one of the select few first distributors to carry the ACC network. The vast majority of legacy Time Warner Cable customers have already chosen to move to Spectrum packages. We believe those customers who still have legacy packages will find Spectrum packages deliver a better value – including lower equipment costs and no modem fees," a spokesperson for Charter told **Cablefax**. Charter has been phasing out legacy packages since the TWC/Charter merger in 2016, and it reports that 82% of its customers are now on Spectrum pricing and packaging. A spokesperson from the PSC confirmed to **Cablefax** that it is in receipt of the letter from Brindisi, referring to ACCN as a "premium channel." "We are reviewing the letter under our authority provided by the federal Cable Act as well as the 2016 Merger Agreement and the recently approved settlement agreement reached with the PSC," the spokesperson said. That settlement agreement, approved in July, resolved a dispute over whether the MVPD met buildout conditions imposed when it acquired Time Warner Cable in 2016. It resolved litigation between the two in NY State Supreme Court and revoked a PSC ruling that Charter would have to stop providing service in the state. For what it's worth, the New York settlements were not related to cable TV and instead addressed broadband. Now, Brindisi is looking to reopen that legislative door. He sent letters addressed NY PSC chmn John Rodes and Charter chmn/CEO Tom Rutledge. "These

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customers are now being asked to pay more for content that was previously included in their contracts. The consumer, in this case the tens of thousands of fans of Syracuse athletics across Central New York, must be held harmless,” he wrote to Rhodes in a letter dated Aug 27. “Therefore, I am urging the PSC to reexamine the terms of the January 2016 merger agreement and investigate whether Charter’s price increase violates the agreement.” Charter customers on legacy TWC packages were not notified that they wouldn’t have access to the net. ACCN is now the home of Syracuse University, and while this won’t affect this weekend’s Syracuse/Liberty football game (carried on **ESPN+**), it does affect the ability to view ACCN’s studio shows and non-revenue sports this fall, plus upcoming basketball season. The net’s first big games comes Thursday evening (8/29), when Clemson and Georgia Tech face off at 8pm. ACCN still lacks carriage from several of the big providers, including **Comcast**, **Cox** and **DISH**.

**Nothing to See with DISH and Disney:** As quickly as **DISH** and **Disney** flared back up, it died back down. Disney had warned **DISH/Sling** customers Tuesday that they could lose **FX**, **Nat Geo** and other channels by 12:01am Wednesday (8/28). But the deadline came and went without any channel disruption as the two continue to talk. It was a repeat of a similar warning that took place July 21. No word of an actual deal yet, but surely this is a promising sign...

**Dorian Reaches Hurricane Status:** With Hurricane Dorian upgraded to a hurricane Wednesday, thoughts and prayers went out to those in the storm’s path. Puerto Rico was on many people’s minds since Dorian is the first major storm to approach it since 2017’s Hurricane Maria, which the island is still recovering from. “As Hurricane Dorian approaches, it is a reminder that the FCC must ensure that Puerto Rico’s communications infrastructure is as strong and resilient as the people who live on the island. My thoughts for continued strength are with our fellow Americans in Puerto Rico,” **FCC** commish *Geoffrey Starks* tweeted Wednesday. The FCC has activated its disaster reporting system for PR as well as all counties in the US Virgin Islands. Communications providers in those areas are asked to provide updates on outages, restoration efforts and equipment status, beginning at 10am Aug 29 and thereafter until the system is deactivated. As of Wednesday, Dorian appeared to be headed for the Southeast US over Labor Day Weekend, with meteorologists concerned it will strengthen. According to **The Weather Channel**, Kennedy Space Center in Cape Canaveral and many military bases in the area are at risk for impact. King tides could also put areas of the East Coast not directly impacted by Dorian at risk. Ahead of landfall, **Verizon** reminded employees that its VtoV Employee Relief Fund is available and ready to help. Since its inception in 2013, VtoV has provided more than \$3mIn in grants for food, shelter, clothing and other necessities to more than 2,500 Verizon employees around the world. Other providers, including **AT&T** and **Comcast**, said they were making storm preparation plans.

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**AMC NETWORKS**

**Comscore and Hudson MX Partner:** Comscore and Hudson MX, a cloud-based ad-tech company focused on addressing local broadcasters, have teamed up to provide audience data to the local market. Hudson MX's in-house DSP BuyerAssist can be used with Comscore's data stores to allow buyers of local TV to buy inventory against Comscore's automotive audiences at scale. Ad dollars in local broadcasting have steadily been on the decline, with the most recent data from Magna citing a 14% drop from 2016 to 2017, about \$20mln in the sector lost. The news follows a major reorg from beleaguered Comscore, which confirmed in an SEC filing last week that approx 8% of the company's employees will be laid off by the end of September. The company's pres *Sara Hofstetter* and CEO *Bryan Wiener* both stepped down in April.

**Hulu Rolls Out Mobile App Revamp:** Hulu began rolling out an updated version of its mobile app with a new interface with a revamped, expanded live TV guide. The updated guide is coming to Hulu.com, Roku devices and Apple TV. First debuted at CES 2019, the TV guide lets viewers take a look at what's airing in the next two weeks and schedule recordings on upcoming programming. A line indicates how much of a program has aired thus far and the ability to filter shows or movies has been moved to a column on the lefthand side of the live TV screen. A Tuesday update also dropped the Lineup section from the mobile app's landing page.

**Americans are Confused About 5G:** More than half (57%) of people in the US claim basic familiarity or are very familiar with 5G, but that doesn't mean they plan to utilize it. Research from Strategy Analytics found that one in five people either don't see a need for the service, or will wait until it has been proven. Just 25% of African Americans and 23% of Hispanics plan to buy a 5G device in the next five months, and one in four people overall list 5G as an important feature. Currently, Apple leads Samsung by 36 points in Gen Z in terms of 5G purchase intent, and by 11 points in the Hispanic segment.

**Eight Charged For Running Illegal Streamers:** Eight individuals were indicted by a federal grand jury Tuesday with conspiring to violate federal criminal copyright law for running two of the largest unauthorized US streaming services. *Kristopher Lee Dallmann*, *Darryl Julius Polo*, *Douglas Courson*, *Felipe Garcia*, *Jared Edward Jaurequi*, *Peter Huber*, *Yoany Vaillant* and *Luis Angel Villarino* ran online subscription-based service Jetflixs, which allowed users to stream and sometimes download copyrighted programming, according to the DOJ. According to a DOJ release, Jetflixs claimed to have 183,200 different TV episodes at one point, with the service allegedly obtaining its library from pirate websites. Polo left Jetflixs to open competing site iStreamItAll, which claimed to have 115,849 different TV episodes and 10,511 individual movies, the DOJ said.

**Programming:** The NHL, NHL Network and the Philadelphia Flyers will team up for a second season of "Behind The Glass: Philadelphia Flyers Training Camp." The series premieres Sept 25 at 8pm. -- HGTV picked up 13 episodes of mother/daughter renovation show "Good Bones" to premiere in summer 2020. The show's fourth season attracted more than 16.9mln total viewers. -- Comedy Central ordered a 10-episode second season of "South Side." The series is currently airing Wednesday nights at 10:30pm. -- Nickelodeon greenlit competition series "Top Elf" and ordered a full series pickup of "The Substitute." Top Elf will begin production in September on five one-hour episodes. -- Uptv acquired "Little House on the Prairie" from NBCU. The series is set to launch on the network on Sept 16 and will air weekdays at 11am.

**Frontier Will Be There for You:** You've probably heard that "Friends" is leaving Netflix in 2020 to find its new home on HBO Max, the upcoming streamer from WarnerMedia. But you might not have heard that Frontier Communications is searching for a die-hard fan – and will pay them \$1K to binge-watch 25 hours (approx. 1/3) of the series – to celebrate the series' 25th anniversary. Through Sept 3, fans can apply for the chance to live-tweet 60 episodes. Frontier says more than 55K people have already entered. "Payment" also includes a year-long Netflix subscription and merch from Friends. Applicants must weigh in on whether Rachel or Ross was right about the break and why. (Trick question – the answer is Rachel should not have gotten off the plane!) New Yorkers are also celebrating the 25th anniversary—if you aren't selected by Frontier, a pop-up experience (cleverly called "The One With the Pop-Up") will open Sept 7 in SoHo and feature complete set recreations, photo ops, and of course, Central Perk.

**People:** Viacom and CBS announced that *Anthony DiClemente* will take the position of evp, investor relations for ViacomCBS upon the closing of the deal. -- FCC chmn *Ajit Pai* appointed *Jeffrey Prince* as chief economist. He replaces *Babette Boliek*, who will return to Pepperdine University at the end of her one-year term. Prince currently serves as a professor at the Indiana University Kelley School of Business and will begin work at the commission on Sept 3. -- DOJ antitrust chief *Makan Delrahim* upped *Kathy O'Neill* to senior director, investigations and litigation. O'Neill, who most recently served as chief of the antitrust division's Transportation, Energy and Agriculture Section, will now act as the division's senior-most civil antitrust attorney. Her oversight will include all civil mergers, conduct investigations and litigation.

# Think about that for a minute...

## Speeding to Conclusions

Commentary by Steve Effros

The Wall Street Journal released the “results” of an extensive, long-term study they have been doing about “internet speeds” the other day. Not surprisingly, the title of the podcast was “Why Faster Internet Isn’t Worth It.” I know this is going to come as a shock to all of you long-time readers. Never mind the fact that the cable industry has been saying for years now that the whole “speed” thing was being driven by totally different reasons, and that most consumers would not need all that speed.

Well, lo and behold, the Journal, after two years of experiments, academic testing and all the rest has come to the same conclusion. The only problem with their conclusion is that they suggest the reason for all the promotion of speed is that the ISPs, and particularly the cable guys, needed something to make up for the loss of revenue from video subscriptions, so we have ginned up this whole thing about the need for speed. The authors really ought to do a little more research before speeding to their conclusions!

To start with, the cable industry said to the “consumer groups” and the FCC a long time ago that the demand for higher and higher speeds was not consumer friendly and that most consumers did not need it. The “consumer advocates,” like the group Public Knowledge, countered by saying that the cable industry was trying to intentionally keep speeds “slow” so that competitors like Netflix would not be able to deliver good service and wouldn’t be adequate replacements for cable. So intentionally “slow speeds” were our fault.

Netflix and Google joined that chorus and the FCC, for its own jurisdictional reasons (it keeps the power to regulate only if the buildout of “broadband” is not what they consider “adequate”) wanted to demand higher



speeds as well. Thus, the FCC has continually increased the speed (from 4Mbps in 2010 to 25Mbps in 2015) that it considers definitional for being considered broadband service. They did that to retain power, not to benefit consumers. The Journal has now proved that Public Knowledge, Consumer’s Union, The FCC and all the rest were wrong. Their tests show that “median” download speed use in the average home is only 7Mbps, and even “heavy users” only hit a median of 18Mbps. Meanwhile, the FCC has set the minimum standard to even be considered “broadband” at 25Mbps! The industry didn’t do that, the consumer groups and the government did. The WSJ reporters seemed to have totally missed that!

Yes, we promote and charge more for faster speeds to deal with peak usage, and yes, rather than fight with that popular misconception (just as with the processing speed of computers, which also is rarely if ever used by the average consumer) we have now re-built our systems to deliver the speeds that consumers were convinced, primarily by the Netflix’s and Google’s of the world, that they had to have. Netflix still publishes speed tests to tell you where you can get the “fastest” internet service, and regulators are still suggesting that they should increase the “minimum speed” definitions. But once we have to build the infrastructure to comply with those demands, you can bet that everyone will have to pay for them! Rebuilding the infrastructure to satisfy mythical “more, better, faster” requirements costs money. Everyone pays, whether they need it or not. Thus, another WSJ article last week was entitled “Free” Speed Upgrades Inflate Internet Bills.”

How about the WSJ telling the rest of the story?

*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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