

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Net Neutrality: States Mark the Spot

With the **FCC** still deadlocked at 2-2, all eyes turn to the fight over net neutrality at the state level. Last week, **NCTA, ACA Connects, USTelecom** and **CTIA** filed their brief asking the 9th Circuit Court of Appeals to overturn a US District Court's decision not to issue an injunction that would have stopped California from enforcing its open internet law.

"That erroneous decision opens the door—for the first time—to 50 states imposing their own, potentially conflicting rules on broadband providers," the associations said in their filing, arguing that the FCC and Congress have consistently determined that interstate communications should be subject to a single uniform set of federal rules.

On Tuesday, nonprofit, nonpartisan think tank **TechFreedom** filed a friend of the court brief in support of the trade associations' view. It argues that the California law is preempted even if the FCC were to issue a new set of net neutrality rules, which some think could eventually happen with the new administration.

"The problem is not simply that this state law conflicts with the current federal standards. Even if the FCC imposed new net neutrality standards, and even if other states then passed their own identical net neutrality laws, there would still be conflicts (and a need for preemption), because states' respective court systems would adopt different readings of the vast ambiguities that will exist in any net neutrality law," the think tank said.

Terms such as "reasonable network management," "zero

rating," and "category," are included in the California law, with TechFreedom describing them as broad, vague, and ill-defined. "If multiple states placed these terms in separate net neutrality laws, state attorneys general, state regulatory bodies, and state courts would give the terms different meanings with different scopes," it argued. "The only way forward for net neutrality—the only way, that is, to create net neutrality rules while respecting the objectives of Congress and the FCC—is for the rules to be set at the federal level."

California passed the law after the FCC's 2017 Restoring Internet Freedom order, which did away with Title II regulation for ISPs. The California measure prohibits ISPs from blocking lawful content and applications and from impairing or degrading lawful internet traffic. The broadband associations argue that the state law is an attempt to preempt federal law.

The California law was allowed to go into effect after the federal judge decided not to block it in February. Some of the early ramifications have included **AT&T** stopping sponsored data, which means AT&T wireless customers on tiered plans can no longer use services like AT&T TV without dipping into their monthly data allotments. "We regret the inconvenience to customers caused by California's new 'net neutrality' law. Given that the Internet does not recognize state borders, the new law not only ends our ability to offer California customers such free data services but also similarly impacts our customers in states beyond California," AT&T said in a statement.

The broadband associations told the 9th Circuit the **De-**

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partment of Veterans Affairs has expressed concern the California law’s ban on “zero-rating” could imperil its existing arrangements to zero-rate veterans’ use of the VA telehealth app. “Although the district court tentatively opined that it ‘appear[s] to be that issuing an injunction would . . . negatively impact the State of California more than the ISP companies,” the fact that California was unable to point to any genuine harm occurring between June 2018 and the hearing—a nearly three-year period when only the FCC’s light touch framework applied—belies that conclusion,” the associations concluded.

FCC SEEKS MORE RDOF INPUT

The **FCC** is soliciting comments on another round of Eligible Telecommunications Carrier applications related to winning bids in the \$9.2 billion Rural Digital Opportunity Fund. The previous round of comments saw the **Ensuring RDOF Integrity Coalition** object to ETC petitions from **Charter, Starlink** and **Starry**. The Wireline Competition Bureau is seeking comment by May 13 on another slate of ETC applications, including **Mediacom** in North Carolina, **Altice USA/Suddenlink** in West Virginia and **Starlink** in North Carolina. ETC status is a prerequisite to receiving the RDOF support. Companies weren’t required to obtain ETC designation until after provisionally winning funding through the FCC’s RDOF auction, so there’s a flurry of ETC requests hitting the agency now. Time’s running out. By June 7, all prospective RDOF winners must upload documentation of ETC designations and a certification letter to their FCC Form.

RATINGS HIGHLIGHTS - ‘GUTFELD!’, HALLMARK

Fox News was in the #1 seat among ad-supported cable last week in total day (1.95 million viewers) and prime (2.185 million), a healthy lead over runner-up **MSNBC** (959,000 and 1.646 million, respectively). Fox News is also feeling pretty good about its new late night show “Gutfeld!,” which debuted last week with an average of 1.57 million viewers, besting **NBC’s** “Tonight Show with Jimmy Fallon” (1.378m) and nearly tying **ABC’s** “Jimmy Kimmel Live!” (1.58m). **Hallmark Channel** was boosted by Saturday’s premiere of original movie “As Luck Would Have It,” which propelled the net to the most-watched entertainment network in weekend prime among households, W18+ and total viewers. Meanwhile, **UPtv** is boasting that its Easter programming reached 6.9 million viewers this year. It wrapped up with the world broadcast premiere of “When We Last Spoke,” which ranks as UPtv’s strongest movie premiere year-to-date in HH and W25-54 delivery. **CNN’s** “The People v the Klan” debuted Sunday with back-to-back episodes starting at 9pm ET. The premiere episode was the most-watched program in cable news at 9pm for adults 25-54,

averaging 193K, followed by 185K from Fox News and 72K for MSNBC. In total viewers, the series racked up 1.086 million. Viewership only grew for the second episode at 10pm, which notched 256K in the 25-54 demo and 1.126 million viewers.

ROKU OFFERS ANOTHER 4K DEVICE

Roku unveiled a new device Tuesday that offers 4K streaming capabilities. The Roku Express 4K+ (\$39.99) also features

Cablefax Executive Round Up

With tomorrow the deadline for Cablefax 100 nominations, we’re revisiting some of the answers from last year’s honorees in our Executive Round-Up. [Enter](#) to be a part of this year’s elite list.

Working from home has taught me...



Patrice Carroll
CEO

ImOn Communications

“That there is value in the focus and productivity I (and our employees) get working from home. I know there is value in being at the office and interacting with each other, but going forward, I want to incorporate some time at home to focus on the future. I don’t get the uninterrupted time I need to be able to do that in the office.”



Dexter Goei
CEO

Altice USA

“A new appreciation for balance between personal and professional lives and the importance that family plays in both of these worlds. I’ve learned many lessons during my time working from home and will carry them into the future in the way I lead my teams.”



Jana Henthorn
President & CEO

The Cable Center

“First, you can innovate from anywhere with the right skills and tools. Intrapreneurship means adapting within constraints. We have done exactly this with our IA program -- now 100% virtual -- allowing us to facilitate industry innovation during these challenging times. And second, wearing anything but yoga pants are not mandatory.”



Linda Yaccarino

Chairman, Advertising Sales & Client Partnerships
NBCUniversal

“There are so many people doing incredible things in this world, including every person on the frontlines. And for any person, in any industry, working from home requires an incredible amount of flexibility, patience, and—especially if you have small kids or pets as coworkers—exceptional balancing skills. For the people in the media industry the shift to working from home required its own type of ingenuity. And we see it every day here.”

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the new Roku OS, which offers the ability to customize the home screen and a large selection of free and live TV content. The company also revealed the Voice Remote Pro (\$29.99), a rechargeable remote that also offers voice controls and a lost remote finder. The Roku Express 4K+ will be available in mid-May while the Voice Remote Pro is available on the company's website today.

ESHOO WANTS LOUD TV ADS INVESTIGATED

Rep *Anna Eshoo* (D-CA) authored the CALM Act in 2010 to limit the loudness levels of TV commercials. She's not feeling so calm these days, citing a *Business Insider* report that complaints about loud ads have increased sharply from April 2020 through February 2021. Eshoo is asking acting FCC chair *Jessica Rosenworcel* to investigate the reported increase and take enforcement action as appropriate. She noted that former FCC chair *Ajit Pai* told her in August the FCC has never brought an enforcement action under the law, even though it receives thousands of complaints. FYI, the CALM Act doesn't currently apply to streaming services (Google "Hulu loud commercials").

DOUBLING DOWN ON ROBOCALL FIGHT

The **FCC** is continuing its war against robocalls. The **Consumer and Governmental Affairs Bureau** issued a public notice and sent letters to major phone companies and third-party developers of call blocking tools to get updated information on their efforts to block unwanted calls to consumers. It also asked for answers on how those companies are measuring the effectiveness of blocking tools and what protections providers are putting in place to ensure call blocking doesn't interfere with emergency services. Additionally, the agency launched a new webpage outlining its progress in updating call blocking rules and steps taken to implement new Caller ID authentication technology.

MEDIA FINANCE FOCUS STAYS VIRTUAL

The *Media Finance Focus* Conference will be virtual again this year, spanning 11 weeks with three keynote sessions and one supersession spread across the conference schedule. Speakers at the conference include **Discovery** CFO *Gunnar Wiedenfels*, **Sinclair** evp of HR *Don Thompson* and **Dell** chief creatologist *Joe Batista*. The conference will run from May 11 to July 15.

TECHNOLOGY PARTNERSHIPS

Cisco and the **NFL** announced a multi-year partnership that names the former as an official technology partner of the sports league. The pair will jointly develop a Connected League Platform that would create a stronger connectivity foundation for the league with improved speeds, intelligence and security. Cisco will also contribute to the NFL's Inspire Change initiative, collaborating with the NFL to deliver technology education and career advancement opportunities to people in underserved communities. – **Vyve Broadband** is expanding its relationship with **OpenVault**. The new deal will see the provider expand its use of OpenVault's cloud-

based data solutions in newly-acquired markets.

HONORS

Mediacom was named as a 2021 US Best Managed Company by **Deloitte Private** and *The Wall Street Journal*. The program recognizes US private companies that have demonstrated excellence in strategic planning and execution, a commitment to their people and fostering a dynamic, resilient culture, as well as strong financials, all while facing the uncertainty of the COVID-19 pandemic. Applicants are evaluated and selected by a panel of external judges. Other companies on this year's list include New Hampshire-based **Red River Technology** and headphones and device maker **Skullcandy**. – **The Peabody Awards** will announce 2021 nominees on May 4, followed by award winner announcements in June. The in-person ceremony is cancelled and Peabody is working on plans to celebrate the honorees through a virtual event.

PROGRAMMING

A+E Studios and **Silver Lining Entertainment Productions** have entered a multi-year first look television development and production deal. Among the projects Silver Lining already has in development at A+E Studios are comedy "End Times" and thriller "Nightshade." – **Global Citizen** announced "Vax Live: The Concert to Reunite the World" will air and livestream May 8. The program, a global special aimed to inspire vaccine confidence, will livestream on **ABC**, **ABC News Live**, **CBS** and **YouTube** at 8pm ET (**Fox** will air it at 11pm). YouTube will stream an extended version of the concert, including additional performances and appearances by musicians and YouTube personalities. – "The WNBA Draft Presented by State Farm" airs live Thursday at 7pm ET on **ESPN**. – **A&E** and **WWE** kick off a 10-week programming partnership Sunday with "Biography: 'Stone Cold' Steve Austin" at 8pm on A&E followed by "WWE's Most Wanted Treasures" at 10pm. – **MTV's** "Double Shot at Love" was renewed for a third season and is slated to premiere later this year. – "Naked and Afraid XL" Season 7 premieres April 25 at 8pm on **Discovery**. This season will be a 60-day challenge as opposed to past seasons' 21-day and 40-day challenges. – **Fox News** signed former Tennessee Congressman *Harold Ford Jr* as a contributor. He'll offer commentary across all platforms, including Fox News Channel and Fox Business Network's daytime and primetime programming.

PEOPLE

Sharon Klein has been named evp, casting, **Walt Disney Television** in an expansion of her former role as evp, casting, **Disney Television Studios** and **FX Entertainment**. Her new assignment is effective immediately. – **Crown Media Family Networks** named *Jonathan Sichel* evp, general counsel. Sichel comes from **AMC Networks**, where he most recently served as evp, distribution sales and strategy. – **The Paley Center for Media** named *Paul Allen* as vp, development. Allen comes from the 9/11 Memorial & Museum where his most recent role was director, major gifts and grants.