

# Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## Full Deck: Biden Nominates Rosenworcel, Sohn to FCC

Everyone and their grandmother had a statement Tuesday on President *Biden's* long-awaited nominations of *Jessica Rosenworcel* as **FCC** Chair and *Gigi Sohn* for the empty Democratic Commissioner seat.

Of course, it's what they were whispering about vs blasting out in a press release that was more interesting. For starters, it was a little surprising to see Acting Chair Rosenworcel get the permanent chair nod. Just a couple weeks ago, the rumor du jour was that longtime public interest advocate Sohn was the favorite, with the administration seeking a more progressive chair.

There also is a bit of backstory between these two that could make for an interesting dynamic. As then-FCC chair *Tom Wheeler's* Chief Counsel, Sohn helped put forth the set-top box proceeding, a rulemaking designed to unlock cable set-top boxes to spur OTT competition. It was scheduled for a vote in September 2016, but pulled at the last minute because Rosenworcel had qualms over the impact on app licensing arrangements with programmers. With OTT competition only growing over the past five years, it seems unlikely the set-top proceeding would be resurrected. But it is evidence that these two don't always see eye-to-eye.

If confirmed by the Senate, Rosenworcel and Sohn represent some historic milestones for the FCC. Rosenworcel would be the first woman in history to serve as chair (*Mignon Clyburn*

was the first to serve as Acting Chair). Sohn would be the first openly LGBTIQ+ Commissioner at the agency. News of the FCC nominations came during the Commission's October open meeting Tuesday, and Commissioners *Geoffrey Starks* and *Brendan Carr* were quick to offer their congratulations to the acting chair. Much to the dismay of the journalists covering the event, Rosenworcel canceled her press conference that typically follows the Commission's monthly gatherings and issued a separate statement saying she was "deeply humbled." She also congratulated Sohn and **NTIA** nom Alan Davidson.

Naturally, the top priority of the new FCC will be re-instating Title II regulation for broadband. A 3-2 vote to bring back the 2015 net neutrality rules is a given, but the devil is in the details, with the biggest detail being whether Title II will open the door for rate regulation of internet services. The previous rules approved under Wheeler included forbearance of rate regulation, but there's no guarantee the FCC will do it a second time. Given the emphasis on affordable broadband, there are concerns that some may decide the solution is to regulate prices through Title II.

**New Street Research** analysts are skeptical, though, arguing that such an attempt would increase the odds of the court overturning the Title II reclassification order. The other issue would be the FCC would have to go through a rulemaking first to determine that prices are actually unreasonable (that's also likely to see a legal challenge). "It is only after both the classification and unreasonable finding pass through courts, and now we are certainly past the 2024 election, that the FCC



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could establish a price regulation regime,” the analysts said in a recent research note. “As we have detailed before, there are many difficulties in doing so that add to our belief that price regulation is not going to happen.”

Extending beyond the 2024 election could be a problem as we’ve seen a Republican-led FCC overturn the 2015 net neutrality rules in 2017 and a Democratic-led FCC is expected to overturn the 2017 Restoring Internet Freedom Order. Regulatory ping pong looks likely to continue depending on the party in charge.

The cable industry has had its share of run-ins with Sohn over the years. First, as Co-Founder and CEO of advocacy group **Public Knowledge**, where she not only pushed for broadband regulatory reclassification but fought against ISPs instituting data caps and the Comcast-NBCUniversal transaction. Those skirmishes became more serious when she was Wheeler’s chief adviser at the FCC. That said, she’s well known, highly engaged and described by Beltway folks as incredibly approachable. Oh, and she frequently sided with MVPDs in their push for retransmission consent reforms.

As for Rosenworcel, yes, she’s long been a Title II fan and she recently re-opened the record on broadband arrangements in apartments and other multi-tenant environments. But she’s sided with cable on various issues over the years. While the failed set-top box proceeding was arguably the most notable, she also has been a huge supporter of opening up more unlicensed spectrum.

Now that we have the answer to the question of who will be nominated, the next big unknown is how do they get confirmed by the Senate. Washington isn’t exactly operating like a smoothly oiled machine (where’s that Infrastructure Bill?).

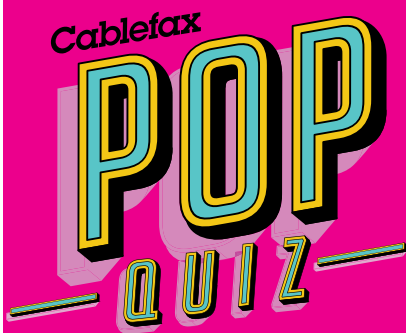
This gets even more dicey given that Rosenworcel’s term is expiring and she must leave at year-end if she hasn’t been re-confirmed. If nothing happens this year, we’ll start January with Republicans having 2-1 majority and Democratic Commissioner Geoffrey Starks serving as Acting Chair. New Street analysts predict that the confirmation process may be messy, but it’ll ultimately get done—possibly not until sometime in 1Q22.

#### WARM WELCOME FOR FCC, NTIA NOMS

Given the long wait for *Biden’s* **FCC** nominations, organizations and lawmakers had plenty of time to prepare their statements congratulating *Jessica Rosenworcel* and *Gigi Sohn* on their noms as well as *Alan Davidson* on his nomination as **NTIA** Administrator. Many used the word “passionate” to describe Sohn, while Rosenworcel was frequently praised for her dedication to bringing broadband to all and bridging the “homework gap.” **NCTA** President & CEO *Michael Powell* gave Rosenworcel props for having “ably led the Commission over the past 10 months as the country increasingly turned to the internet to adapt to pandemic demands.” **ACA Connects** President & CEO *Matt Polka* lauded all three and urged the Senate to confirm them without delay “so that they can begin the agencies’ important work to bridge the digital divide and facilitate the development of 21st Century communications infrastructure.” In congratulating Davidson on this nomination, **USTelecom** President and CEO *Jonathan Spalter* complimented NTIA Acting head *Evelyn Remaley*. She “has shown real leadership, particularly in protecting our communications infrastructure from botnets, supply chain disruption and other emerging cyber threats.”

#### CUBAN SUPPORTING MAVERICKS RSN VIEWERSHIP

**Dallas Mavericks** owner *Mark Cuban* has plans to incentivize



One winner will be selected each week for a Starbucks gift card

What 1990s crime drama about detectives who solve crimes of passion first aired on CBS, with seasons 3-8 debuting on USA?

[CLICK HERE TO ANSWER](#)

Last week’s answer: **Geoffrey was the butler’s name in “Fresh Prince of Bel-Air.”**

Kudos to last week’s winner: Daniel Castro, The Walt Disney Company

the **NBA** team's fans to sign up for the only streaming platform offering **Bally Sports Southwest**. The news was first [reported](#) by the *Dallas Morning News*. The RSN is the home of the team's games, but is now only carried on one streaming platform: **DirecTV Stream**. Packages that include RSNs start at \$84.99/month, but Cuban wants to offer 10,000 fans a \$50 monthly credit for the service. Should his plan come to life, the franchise would first offer season ticket holders the opportunity to sign up before opening it up to other interested fans. Bally Sports Southwest is also available on traditional cable packages from providers including **Charter**, **Suddenlink** and **Grande Communications**.

#### VERIZON AND KUIPER TOGETHER FOR BROADBAND

**Verizon** and **Amazon's** Project Kuiper are collaborating to develop connectivity solutions for unserved and underserved communities. Project Kuiper is Amazon's attempt to deliver broadband through a constellation of more than 3,200 low Earth orbit satellites. The collaboration's initial focus will be on expanding Verizon's data networks by using Project Kuiper's satellites for cellular backhaul. The pair have already begun developing technical specifications and defining preliminary commercial models for services for U.S. consumers and enterprises operating in rural or remote areas.

#### ROKU MEASUREMENT AVAILABLE ON NIELSEN

**Roku** and **Nielsen** have worked together to allow publishers to measure channel content on Roku devices within Nielsen's Digital Content Ratings. The capability will grant publishers access to deduplicated reach and demographic information for channels on Roku devices, giving them deeper insights into what programs reach key audiences. Nielsen and Roku have been thick as thieves all year thanks to a strategic alliance and the latter's acquisition of Nielsen's Advanced Video Advertising business.

#### 71% OF TV HOUSEHOLDS HAVE PAY TV SERVICE

**Leichtman Research** reports that 71% of TV households nationwide have some form of live pay TV service, though the percentage of households that have such a service (via cable, satellite, telco, or internet-delivered vMVPD) is down from 82% in 2016, 87% in 2011, and 86% in 2006. These findings are based on a survey of 2,000 households from throughout the United States, and are part of a new LRG study, "Pay TV in the U.S. 2021." Other findings: 41% of those that moved in the past year do not currently have a pay TV service; 35% of renters do not have a pay TV service, compared to 25% of homeowners; and 26% of adults agree that it is OK to use a friend's log-in passwords to watch live TV, including 40% of ages 18-34.

#### AT THE COMMISSION

The **FCC** approved a public notice announcing its third set of Connected Care Pilot Program projects at its open meeting Tuesday. A total of 36 projects were approved for more than \$15.3 million in funding. The program will make available up to \$100 million from the Universal Service Fund over a three-year period to help defray the costs of providing certain telehealth services for eligible healthcare providers. Some 93 projects have been approved so far for a total of \$69.3 million in funding.

#### CARRIAGE

**Fox Nation** launched on **YouTube TV** as an optional add-on. Sunscribers will be able to access the SVOD for an additional \$5.99/month.

#### CES CHOOSES DIGITAL PLATFORM PROVIDER

**CES** will use Web Summit's Summit Engine to support the digital portion of the show's 2022 program. CES 2022 returns to Las Vegas Jan 5-8 for an in-person show, but Web Summit will allow digital attendees to view live keynotes and select conference sessions. Those planning to attend the show in-person will also utilize the platform to plan their show schedule and connect with other attendees.

#### SEEHER ADDRESSES HISPANIC COMMUNITY

**NBCUniversal**, **Telemundo** and **SeeHer** teamed up to develop a resource highlighting the importance of investing in Hispanic female talent and accurate representation in media. The first Latina-focused #WriteHerRight guide encourages authentic portrayals of Hispanic women and girls in marketing, media, advertising and entertainment, encouraging storytellers to address their unconscious biases. It also examines potential blind spots in today's media portrayals and highlights language and cultural nuances that should be taken into account. The guide was developed by the **Association of National Advertisers** with insights drawn from NBCU and Telemundo executives, creators and other media organizations.

#### PROGRAMMING

**HBO** renewed "Succession" for a fourth season. The drama's Season Three premiere on Oct 17 drew more than 1.4 million viewers across all platforms, marking it as the best premiere night of any HBO original series since the launch of **HBO Max**. – **The National Lacrosse League** inked a deal with **ESPN** giving ESPN and ESPN+ exclusive rights in the U.S. and the rest of the world outside Canada for live NLL games. ESPN linear networks—with a minimum of 10 live games annually—and ESPN+ will combine to carry up to 139 games exclusively each year. It will be the largest number of live televised games in the history of the league. – **HGTV** greenlit "Build It Forward," a show developed in collaboration with Lowe's. The five-part series, to debut on HGTV and discovery+ in early 2022, will highlight community members that sponsored their towns for Lowe's 100 Hometowns impact project initiative. Those members will receive surprise home renovations from HGTV.

#### PEOPLE

**Stephen Potenza** joined **Fox Corp** as Deputy General Counsel, **Fox News Media**. He last served as a partner in **Kirkland & Ellis LLP's** Litigation and Government, Regulatory and Internal Investigation groups. Fox also upped **Lisa Richardson** to EVP, Business & Legal Affairs/Associate General Counsel. – **Hulu** upped two original content execs to VP titles. **Ashley Chang** is now VP, Content Development, Drama, while **Beth Osisek** is now VP, Original Documentaries and Limited Series. Before coming to the streamer, Chang served as Senior Director, Development at **Funny Or Die**. Osisek began her career as a journalist and filmmaker, spending time at ABC News and The Christian Science Monitor.