

# Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## Record Refresh: NCTA Defends Contracts with Apartments, Condos

NCTA is on the defensive when it comes to exclusive marketing agreements, term wiring deals and other arrangements for broadband in apartments, condos and other multiple tenant environments (MTEs). Having successfully petitioned the FCC for more time to review and respond to initial comments in the agency's proceeding to refresh the record on improving broadband for MTEs, NCTA went through various objections to argue that such arrangements are pro-consumer and pro-competition.

"Contrary to some commenters' claims, term wiring, revenue sharing, and exclusive marketing arrangements do not explain why competitive providers may decline to serve these MTEs. Rather, as the **National Multifamily Housing Council** points out, many competitive providers are unwilling to serve these MTEs because they view them as insufficiently profitable to serve," NCTA told the FCC in a recent filing. "Indeed, as NMHC further notes, the vast majority of competitive providers are looking to serve MTEs in higher income areas."

What's more, NCTA said those types of arrangements help keep rent and broadband prices lower for MTE residents. Instead, the cable association argued that the real threat to the growth of MTE competition are exclusive access agreements, which the FCC has banned for MVPDs and telecom providers. However, NCTA said the agency needs to expand the prohibition to all providers in an MTE and abrogate existing exclusive access agreements. It's unclear if broadband-only providers

fall under the exclusion.

The association added that exclusive access prohibitions should apply to all parts of an MTE. "Contrary to the **Wireless Infrastructure Association's** assertions, there is no reason to treat MTE rooftops differently from other parts of an MTE. As NCTA explained previously, promoting competition in and increased deployment of wireless broadband service and infrastructure—which often requires placing facilities on MTE rooftops or installing DAS systems—is an important Commission goal, and the concerns above regarding exclusive access to MTEs and the harmful effects of regulatory disparities apply equally to wireline and wireless infrastructure and service in MTEs," the group said.

**NATOA** (National Association of Telecommunications Officers & Advisers) warned that a blanket extension to rooftops could have unintended consequences. "We are concerned that a ban on exclusive rooftop agreements may be interpreted as a requirement to allow access to subsequent providers," NATOA said. "The Commission does not have authority to require a property owner to allow this use, and it should be clear the Commission is not purporting to do so."

The cities of Boston, Portland and Ontario, California, don't see eye-to-eye with NCTA on all MTE matters. They spoke out against revenue sharing agreements and wire term deals, saying they create barriers of entry and discourage broadband deployment. However, the cities do agree with NCTA that the exclusive access ban should apply to all broadband providers. "Congress



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and President Biden have invested close to \$100 billion to make broadband universally available, and has provided the FCC with the ability to distribute no less than \$18 billion to make broadband affordable,” they said in a joint filing. “By establishing acceptance of any such exclusive bans as a condition for eligibility for EBB or ACP funding, or traditional E-Rate support, the Commission could act to ensure that the vision of affordable broadband that has guided the Infrastructure Investment and Jobs Act is available to residents of MTEs and not frustrated by guaranteeing a monopoly environment for providers.”

NCTA also argued that any attempt by the FCC to ban wiring agreements or mandate wire sharing for MTEs would be unconstitutional. “The Fifth Amendment prohibits the government from taking private property for public use, unless it pays ‘just compensation,’” the association said.

**SOHN'S FCC NOM FACES FIRST TEST WEDNESDAY**

**Senate Commerce** has set *Gigi Sohn's* nomination hearing for the fifth and final open spot at the **FCC** for Wednesday. It's a challenge to predict exactly what questions will dominate the hearing, behind perhaps obvious topics like the regulation of broadband as a Title II service and competition in the video marketplace. But Acting FCC Chair *Jessica Rosenworcel* may have saved her some grilling on broadband rate regulation. In a 59-page document responding to questions from senators, Rosenworcel ended all speculation that she could be in favor of the FCC directly or indirectly regulating broadband service rates. “I voted to support the decision in 2015 to adopt net neutrality rules. That decision stated that it ‘expressly eschew[s] future use of prescriptive, industry-wide rate regulation.’ I sup-

ported this approach in the past and would do so again in the future,” Rosenworcel said. Her response effectively eliminates any chance such an issue could be debated at the Commission during her tenure as Chair, should she be confirmed. What Sohn may be probed about is her leadership position at **Locast**, the now-defunct local broadcast streaming service. She was named to the service's board last year, but the service was forced to shut down in September following a permanent injunction from a judge in the Southern District of New York. It was also ordered to pay the Big 4 broadcasters \$32 million to settle copyright infringement claims. “The ethics agreement that Ms. Sohn submitted to the Senate currently does not adequately address the inherent conflict presented by her recent leadership position at Locast and her potential role as an FCC commissioner,” **NAB** said in a statement. “NAB is actively working with members of the Senate Commerce Committee and the White House to address this conflict and requests that Ms. Sohn submit an amended ethics agreement that meaningfully and effectively addresses this clear and troubling conflict.” Sohn has her fair share of supporters that have made their voices heard since President *Biden's* nomination last month. The latest to weigh in are **Allen Media Group** founder *Byron Allen* and **Newsmax** CEO *Christopher Ruddy*. In a statement, Ruddy said he's worked with both she and Rosenworcel and has found them to be “fair-minded persons of strong integrity” despite their differences on policy matters. He and Allen both believe Sohn to be a champion of localism in broadcasting and diversity in programming lineups. “Over many years, she has worked nonstop to promote greater competition and more minority ownership in broadcasting. As a

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**Final Deadline: Dec. 10** (late fees apply)

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commissioner, she would have the tools to improve ownership diversity among FCC licensees,” Allen wrote in an open letter to members of the Senate. “As the first openly LGBTQ person in history nominated to the FCC, Gigi truly understands on a personal level why diversity and inclusion for all Americans matter.”

### COMCAST RAISING RATES

Tis the season... **Comcast** customers have started receiving bill notifications of higher rates to take effect over the coming weeks, with the majority hitting in January. The average customer bill nationwide will increase about 3%. The rate hikes vary by market. For example, the broadcast TV fee is increasing by \$4 in metro Atlanta, while it's rising by \$2.75 in the Connecticut area. The southern market's RSN fee isn't rising as much though—\$2.30 vs \$4.25. Comcast said the combined increases for the two fees won't exceed \$7 in any market. Markets with **MSG Networks**, which was removed from Comcast in October, won't see an RSN fee increase. The price increases also extend to video and internet packages as well as equipment (no increase for voice). Internet only packages are going up about \$3 month. Comcast has a [website](#) to provide more information on the billing changes. “Programming costs are driving up prices for all providers, including streaming services, as seen by the significant price increases of services offered by distributors this year alone,” the company said. **Hulu** is raising its Hulu with Live TV monthly subscription cost by \$5 to \$70 beginning Dec. 21. SVODs also have been on the rise, with **Netflix** and Hulu both raising their subscription fees by \$1 in October. Comcast customers who have promotional prices or minimum-term agreement for specific services won't see a change in price until that period is over. However, taxes and fees such as equipment charges, the Broadcast TV Fee and Regional Sports Network Fee, and service to additional TVs may change as needed.

### VERIMATRIX ATTACKING STREAMING PIRACY

**Verimatrix** launched a solution designed to protect OTT content from pirates stealing programming like live sports and premium movies. Verimatrix Streamkeeper includes the company's Counterspy technology and includes watermarking, data collection and the ability to launch telemetry-based investigations at both the app and the user level. A customer dashboard is also available to predict risks, track trends and look at potential infringers. Streamkeeper will be generally available at the end of 1Q22.

### VIACOMCBS PREPARES NEW PLUTO FOR NORDICS

**ViacomCBS Networks International** and **Nordic Entertainment Group** are partnering to launch a new **Pluto TV** service across Sweden, Denmark and Norway in 2022. The AVOD platform will be similar to Pluto TV's existing service, featuring curated channels and on-demand programming from the ViacomCBS library and third party partners. Nordic Entertainment Group will serve as the platform's leading advertising sales partner. After the launch of the new Pluto TV service, Nordic Entertainment Group will phase out its AVOD platform Vifree.

### CHARTER'S GOT POLE PROBLEMS

**Charter** told the **FCC** last week that broadband providers are having difficulties obtaining access to poles in a timely fashion,

which could delay broadband deployment in unserved areas, including for Rural Digital Opportunity Fund projects. The operator described a recent situation it experienced with **Warren Rural Electric Cooperative Corporation** in rural Kentucky, where it will extend its network through RDOF to reach 6,055 unserved homes. Charter said the utility provider wants it to sign a new pole agreement that would “unreasonably and arbitrarily” limit the number of pole attachment applications it would process, which would prevent Charter from meeting its RDOF timelines. “Unless action is taken to protect consumers in rural Kentucky, at the permit processing rate currently proposed by WRECC, it would take 14 years to complete the permitting process for attachments to poles to reach these locations—about seven times longer than planned and double the maximum allowed to deploy these federal taxpayer dollars under RDOF,” Charter told the FCC. It's also warning that some pole owners have competitive incentives to delay broadband deployment by attaching entities because they are themselves affiliated with broadband providers who are putative competitors to the attaching entities, including (in the case of WRECC) affiliates or business partners receiving RDOF support.

### TRUE ROYALTY TV EXPANDING ITS KINGDOM

**True Royalty TV** kicked off a £25 million fundraising round Monday to capitalize on the success of its distribution deal with **Amazon Prime Video** in May. The service has grown its subscribers and revenue by 75% since then and expects to double subscriber numbers again in the next six months. In addition to Amazon Prime Video, True Royalty TV is available on **Comcast, Cox, Sling TV, The Roku Channel** and more.

### PEOPLE

**Comcast** elevated *Dennis Mathew* to SVP of the company's Freedom Region, which includes the Greater Philadelphia area, New Jersey and northern Delaware. He's held a number of management positions across Comcast, most recently spent two years leading the company's Western New England Region.

### OBITUARY

Former **Time Warner Cable** marketing exec *Brian Kelly* passed away Nov. 17 peacefully at his home following a three-and-a-half year battle with cancer. He was 62. Kelly served as President of Residential Services for the Carolinas and later CMO for TWC's East Region. He also spent two years as a GM for **Continental Cablevision**. “Brian prided himself on his professional accomplishments, but his deepest commitments were to his faith, his friends, and his family,” the family wrote. “He lived a full life of rich experiences: cycling the Italian countryside, playing the links at the Old Course at St. Andrews, coaching Stephanie's youth soccer team, and watching Caroline's theatre productions, all while cheering tirelessly for the Red Sox, Celtics, and Patriots.” In lieu of flowers, a gift in his memory can be made to the Levine Cancer Institute via its [website](#) or the [Red Sox Foundation](#). A visitation will be held at 10am on Dec. 16 at St. Gabriel Catholic Church in Charlotte, N.C., followed by a funeral Mass at 11am. A [live stream](#) of the funeral also will be available.