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WHAT THE INDUSTRY READS FIRST

How To: Stakeholders Weigh in on FCC's Digital Discrimination Fight

The **FCC** was flooded with comments this week on how it should implement aspects of the Infrastructure Investment and Jobs Act charging the agency to identify steps to eliminate digital discrimination. That means ensuring that no individual is unable to receive internet service because of their income level, race, ethnicity, color, religion or national origin.

Cable industry stakeholders urged the Commission to remember that equal access does not mean that all Americans must have access to the same types or levels of service. Instead, the focus should be placed on making certain that consumers have access to offerings with comparable quality and terms.

A key aspect of the infrastructure legislation is its requirement that the FCC understand that there are times and circumstances that complicate broadband deployment and can lead to different levels of availability or variances in tiers across locations. **NCTA** argued in its filing that the Commission should use the Cable Act's approach to technical and economic feasibility to inform how to facilitate equal access to broadband under the Infrastructure Act. Section 621 of the Cable Act states that franchising authorities must assure that cable service is not denied to a group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides. It also recognizes that buildouts may occur incrementally for non-discriminatory

reasons and a provider has a reasonable period of time to become capable of providing cable service to all households in a franchise area.

"The Commission should establish presumptive categorical exclusions or safe harbors for certain situations where differences in deployment are not digital discrimination—for example, differences in 'high cost' (e.g., Rural Digital Opportunity Fund or Connect America Fund) areas, very rural areas, areas with environmental restrictions or terrain or outdated poles or similar infrastructure that make broadband deployments impractical or uneconomic, areas that present permitting issues, and households that have very long line drops," NCTA said.

USTelecom also told the agency that any inquiry into whether a provider is engaging in digital discrimination must consider the intent of the ISP. That intent could mean anything from denying service to customers or crafting deployment decisions based on prohibited characteristics, but not all uneven deployment equals digital discrimination, it said. "Rather it is a natural result of the difficulties inherent in deploying a broadband network," USTelecom told the FCC.

On the wireless side, **T-Mobile** said the Commission should actually take a wider view on what Congress meant when it directed the agency to facilitate equal access to broadband. In its view, the FCC should focus on developing policies that encourage and incentivize deployments and adoption.

"For instance, to encourage more deployments in the wire-



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less segment, the Commission's rules should make it easy for wireless providers to deploy and upgrade cell sites quickly and efficiently. Authorizing additional spectrum for licensed broadband use would also provide the foundation for even greater wireless network connectivity and more new, innovative service offerings," it said. "By focusing on delivering more low-, mid-, and high-band spectrum for licensed use, the Commission can help the wireless providers deliver more value to consumers, drive adoption of innovative new technologies, and promote a more inclusive digital environment for all."

But NCTA argued there are plenty of other initiatives at the FCC and that have passed through Congress that are aimed at boosting adoption, deployments and affordability. Additionally, the private sector is doing its own work to ensure more households than ever before have broadband access. It highlighted that several of its members offer a 100Mbps tier at or below the \$30 price point in order to make those speeds accessible to Affordable Connectivity Program subsidy recipients as well as programs like **Comcast's** Internet Essentials, **Cox's** Connect2Compete and **Charter's** Spectrum Internet Assist.

"In light of these efforts by the private and public sectors, the Commission should, in interpreting and developing rules to 'facilitate equal access,' focus on the statutory mandate that it adopt rules 'preventing digital discrimination of access' to broadband, and maintain policies 'prohibiting deployment discrimination,' rather than duplicating efforts on affordability and other adoption challenges that are already being addressed in myriad other ways," NCTA said.

USCELLULAR'S SPELLMEYER TO LEAD ACA CONNECTS

It's been just over three years since the American Cable Association changed its name to **America's Communications Association—ACA Connects**. Further evidence of how far it has come from its cable roots can be seen in the board's selection of a new CEO: former **USCellular** VP of Government Affairs *Grant Spellmeyer*. Spellmeyer's first day is June 1, with outgoing President/CEO *Matt Polka* to exit in late July. There will be sort of an unofficial changing of the guard at the **Independent Show** in Orlando July 24-27. "I look forward to working with ACAC's experienced staff, ACAC members, and federal and state policy makers to strengthen the position of independent companies in the communications marketplace," Spellmeyer said in a statement. "One overarching goal is to ensure ACAC members continue to succeed in providing consumers with a variety of competitive services—regardless of company size or geography—today and in the future." Spellmeyer is new to the association world, but not to government relations and public policy. At the wireless carrier, he directed federal and state legislative and regulatory efforts across

the company's 21-state operating territory on all policy matters. That included lobbying over the fine points of the FCC's C-Band auction, in which USCellular purchased 254 licenses for nearly \$1.5 billion. Before he joined USCellular in 2006, he served as Director of Legal Affairs & Carrier Relations for ACAC member **TDS Telecom**. He has some big shoes to fill with Polka serving as ACAC's only CEO, having led the association for 25 years. ACAC has more than 600 small- and medium-sized independent providers of broadband, phone and video services. Key issues for Spellmeyer in the coming months will be the disbursement of government funding for broadband deployment (and ensuring his member companies aren't overbuilt). There's also the specter of net neutrality, with **FCC** Chair *Jessica Rosenworcel* promising a Title II proceeding if/when a fifth commissioner is seated.

NY PSC ADDS TO CHARTER'S BUILDOUT TO-DO LIST

Remember **Charter's** [dust-up](#) with the state of New York over whether it had met buildout requirements required by the Public Service Commission's 2016 approval of its acquisition of **Time Warner Cable**? The two reached a settlement in 2019 that modified the deadline to complete the expansion of Charter's network to pass an additional 145K unserved and underserved residential housing units and/or businesses. Charter said it met that 145K addresses buildout obligation in September 2021, but there's still more to be done. The settlement included Charter putting \$6 million into an escrow fund for incremental buildouts that will be completed by Charter at the state's direction. The PSC provided an initial group of projects for that incremental build in October, which Charter has agreed to. On Tuesday, the PSC released a second group of projects that staff determined should be included. DPS Staff authorized Charter to commence work on the projects, which are confidential, upon submitting a letter confirming its agreement. As for the 145K addresses Charter was required to buildout by 2021, the PSC has one year to verify compliance and these incremental builds cannot count toward the 145K metric.

CHUCK SCHUMER VS TUCKER CARLSON

Following Saturday's deadly, racist attack on a Buffalo grocery store, Sen Majority Leader *Chuck Schumer* (D-NY) penned a letter to **Fox News** leaders imploring the network to "cease all dissemination of false white nationalist, far-right conspiracy theories." He cited a *NY Times* [investigation](#) that host *Tucker Carlson* alone amplified the "great replacement theory" in more than 400 episodes of his Fox News show and that a recent [AP poll](#) found Fox New viewers are nearly three times more likely to believe in replacement theory than those of other networks. That same poll found replacement theory belief higher among **One America News/Newsmax** viewers (45%), while **CNN** and **MSNBC** came in at 13% and 11%, respectively. The premise of

replacement theory is that white people are being replaced by people of color. Schumer tweeted Tuesday that Carlson invited him on his show to debate his letter: "I'm declining. Tucker Carlson needs to stop promoting the racist, dangerous 'Replacement Theory.'" The senator devoted most of his Twitter feed Tuesday to Fox News and Carlson. On his show Monday, Carlson called the Buffalo mass shooting suspect racist and mentally ill, adding his 180-page letter is a "rambling pastiche of slogans and internet meme" and not really political at all. "Within minutes of Saturday's shooting before all of the bodies of those 10 murdered Americans had even been identified by their loved ones, professional Democrats had begun a coordinated campaign to blame those murders on their political opponents," Carlson said.

PAY-TV PROVIDERS LOST SUBS IN 1Q22

Data from **Leichtman Research Group** found that major pay-TV providers lost around 1.96 million net video subscribers in 1Q22. **Comcast** had the biggest net loss of that group at 512,000, followed by **Charter** at 112,000 and **Cox** at an estimated 80,000. Other traditional pay-TV services had an estimated net loss of 625,000 in 1Q22 compared to 865,000 in 1Q21, led by **DirectTV** and **DISH** losing 300,000 and 228,000, respectively. **Sling TV** led vMVPDs with a loss of 234,000, while **Hulu** lost 200,000.

PHONE CUSTOMERS HAVE THEIR SAY

The **American Customer Satisfaction Index** published its 2021-22 wireless phone service and cell phone study. **Altice USA's** Optimum Mobile was No. 1 in customer satisfaction among full service wireless providers with a 77 rating. **Xfinity Mobile**, Metro by **T-Mobile** and **Spectrum Mobile** followed behind with 76, 74 and 74, respectively. For mobile network operators, T-Mobile topped the chart at 74 with **AT&T** and **Verizon** following at 73 each. Overall satisfaction with wireless phone services decreased 1.4%, but AT&T and T-Mobile remained at the same metric as in 2021. Verizon dipped 1% to 73. The study interviewed 23,411 customers between April 2021 and March 2022.

STANDARD GENERAL-TEGNA DEAL PROGRESSES

Tegna shareholders voted to approve the merger with an affiliate of **Standard General**. Approximately 78% of Tegna's outstanding common shares voted to adopt the merger agreement, which is expected to close in the second half of this year. Once closed, Tegna will become a private company.

CABLE ONE INVESTS \$950 MILLION

Cable One is building toward 10G with a \$950 million investment in its network. 10G provides faster symmetrical speeds, lower latency and enhanced reliability. Cable One is upgrading its network return path ahead of the launch of DOCSIS 4.0 to allow for symmetrical multi-Gig high-speed internet performance.

AT THE COMMISSION

The **FCC** gave the green light to another wave of Emergency Connectivity Fund program support. More than \$50 million will be distributed as part of the 15th wave of support to 46 schools, 7 libraries and 2 consortia across American Samoa, Arizona, Colorado, Illinois, Ohio and the U.S. Virgin Islands. Results from the Commission's third filing window will be an-

nounced in the coming days. – The FCC's Office of Economics and Analytics is seeking comment on the state of competition in the communications marketplace. Specifically, the bureau is interested in data, information and comment for 2020 and 2021 as well as insight into any notable trends and developments that have occurred in the first half of 2022. Comments are due July 1 and reply comments must be in by August 1. – The FCC is seeking comment on a petition for declaratory ruling or limited waiver that would clarify that data collection filings for the Commission's revamped broadband availability maps may be certified by a qualified professional engineer. The petition filed by the **Competitive Carriers Association** would also allow the filings to be certified by an otherwise-qualified engineer that is not a licensed professional engineer accredited by a state licensure board. Comments on how the petition could impact fixed and mobile broadband service providers are due 14 days after publication in the Federal Register.

GAC DTC APP IN THE WORKS

GAC Media is developing a direct-to-consumer app called **Great American Community**. The ad-supported service will have short-form lifestyle, seasonal and holiday content from GAC talent and will be available on connected devices and in mobile app stores. The company has ordered over 200 hours of original content for the app—which will launch in September—and appointed *Tracy Verna* to oversee all content creation.

CEO WANTED AT SCHURZ COMMUNICATIONS

Schurz Communications President/CEO *Todd Schurz* announced this month that he will retire at the end of the year. Schurz has served as president since 2005 and CEO since 2007. Executive search firm **Reilly Partners** is handling the hunt for a new boss. The 150-year-old company has a broadband provider portfolio that includes Ohio's **NKTelco**, **Antietam Broadband** (Hagerstown, MD), **Burlington Telecom** (Burlington, VT), **Hiawatha Broadband** (Winona, MN), **Long Lines Broadband** (Sergeant Bluff, IA) and **Orbitel Communications** (Maricopa, AZ).

RATINGS

Turner Sports' coverage of the first round of the 2022 Stanley Cup Playoffs was the most-watched first round on cable ever. Games on **TNT** and **TBS** averaged 812,000 viewers across 25 broadcasts, up 60% compared to 2021. Female viewership for playoff games also is up 83% through the first round. Sunday's Game 7 matchup that saw the New York Rangers defeat the Pittsburgh Penguins delivered 2.3 million average viewers, making it the most-watched non-Stanley Cup Finals game since 2018.

PROGRAMMING

DNEG, a visual effects and animation company for the creation of film, TV and multiplatform content, signed a multi-year services agreement with **Netflix**. The \$350 million deal runs through 2025 and covers the provision of visual effects and virtual production services for Netflix programming. – **Telemundo** and Turkish production and distribution company **Inter Medya** agreed to a multi-year co-production deal where the companies will co-develop and co-produce long-form scripted Turkish series to air on Telemundo.