

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Won't Back Down: Fight Against Digital Discrimination Rules Continues

The FCC's digital discrimination rules have been in effect for a week, but the fight against portions of the Commission's order continues on multiple fronts.

On Friday, a group of 16 state telecommunications and broadband associations representing approximately 348 rural broadband providers filed joint reply comments with the FCC expressing their support for an exemption for rural providers from two additional affirmative obligations proposed in the agency's FNPRM that would apply to every broadband provider, regardless of size or evidence of discriminatory practices.

The group of state associations, which includes the **Kentucky Rural Broadband Association** and the **Broadband Association of Michigan**, argued that their members continue to construct, operate and maintain their broadband infrastructure in a way that is inclusive. Many of the member companies covered by the associations are cooperatives that pride themselves on their transparent business plans and community engagement.

Beyond that, the associations argue that the new affirmative obligations place reporting requirements onto rural providers that are ridiculously burdensome and unnecessary. They say that's particularly true because of the federal universal service programs rural providers have already utilized to connect high cost and rural areas. Those funds come with strings attached, including a number of reporting requirements that mean the FCC already has all the information it needs to determine

whether a provider is violating the digital discrimination rules. It used **USDA's** ReConnect program as an example.

"Rural providers receiving either grant and/or loan awards under this program must not only provide detailed information regarding any proposed broadband deployment projects as part of their application and during their process of completing construction of an approved/awarded project, but must also provide regular reports to the RUS over either the 'composite economic life' of the assets, if assisted by grant funds, or the established 'amortization period' of any awarded loan," the associations said.

ACA Connects, NTCA-The Rural Broadband Association and **WISPA-The Association for Broadband Without Boundaries** joined together to file reply comments of their own, telling the Commission they agree that everyone needs to keep working together to ensure access to broadband is provided as widely as economically and technically feasible. But it fought back against a number of the arguments made by the **California Public Utilities Commission** in its comments, including an assertion that the FCC can and should regulate the duration during which private firms may try to recover investment or overall strategies for earnings.

"Nowhere does the governing statute envision a hostile takeover of private business management. The road to such excessive reporting requirements is riddled with flaws and concerns," the joint filers said. "The Commission should therefore decline to impose such requirements on providers, especially small providers who have not been shown to engage in problematic or unlawful behavior."



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In other news, movement continues in the courts where others hope that the digital discrimination order will be ruled unlawful. The suit filed by the **U.S. Chamber of Commerce** against the FCC asking the court to vacate the digital discrimination order has earned the support of several state associations and industry groups including **ACA Connects**, **NCTA**, **CTIA** and **USTelecom**. It continues to move forward and court dates will soon be set.

In a motion filed with the Eighth Circuit Court on Friday, the FCC said the parties in the case agreed with a preliminary assessment that the consolidated cases being considered should be broken into two groups—one for industry petitions and another for public interest petitioners, with each group briefing on its issues separately. They will each submit consolidated opening and reply briefs while the FCC will submit a singular response brief addressing issues raised by each group of petitioners.

Everybody involved in the case largely agrees on a briefing schedule with the industry petitioners and public interest petitioners presenting their joint opening briefs on April 22 and the consolidated brief from the FCC would be due on June 21. This case will span the summer with the proposal setting final briefs for August 9. The only disagreement between the two groups of petitioners is on when to hold oral arguments. The industry petitioners are asking the court to hold oral arguments in the first sitting available in September, but the public interest petitioners and the FCC have asked for oral arguments to be held at the court’s convenience.

WBD BOARD RESIGNATIONS

Steven Miron and Steven Newhouse are stepping down from **Warner Bros. Discovery’s** board effective immediately. The news follows a notice from the U.S. Department of Justice that it was investigating whether Miron and Newhouse’s service on the board violated Section 8 of the Clayton Antitrust Act. That provision prohibits a board-appointed officer or director from serving on the board or on the management of a competing corporation. Miron and Newhouse didn’t admit to any violation, but opted to resign instead of contesting the matter. Miron is the CEO of Advance/Newhouse Partnership and a senior executive officer at Advance. Newhouse is co-President of Advance. The two were originally appointed to the board after the Warner Bros.-Discovery merger in April 2022 and were two of six Discovery designees. Their initial terms were set to expire at WBD’s 2025 Annual Meeting of Stockholders.

AT&T ASSESSING DATA BREACH

AT&T is launching an investigation after it announced it had data-specific fields that were contained in a data set released

on the dark web approximately two weeks ago. “Based on our preliminary analysis, the data set appears to be from 2019 or earlier, impacting approximately 7.6 million current AT&T account holders and approximately 65.4 million former account holders,” AT&T said. It’s not yet known if the data in the leaked fields came from AT&T or one of its vendors, but the company did note the data includes personal information such as Social Security numbers. As of now, AT&T hasn’t found evidence of unauthorized access to its systems that led to its data being stolen. It’ll be offering credit monitoring at the company’s expense.

NTIA OPENS UP NOFO FOR SECOND DIGITAL EQUITY PROGRAM

NTIA has officially begun soliciting applications for the second of its three digital equity grant programs. The agency revealed the NOFO requesting applications for the State Digital Equity Capacity Grant Program, a program that allows states and territories to apply for funding to begin implementation of their digital equity plans. In the months ahead, NTIA also plans on launching the Digital Equity Competitive Grant Program, a \$1.25 billion program making funds available for annual grant programs to implement digital equity projects across five years.

NAD SIDES WITH COX MOBILE

The **National Advertising Division** is siding with **Cox Communications** in a challenge regarding the claim Cox Mobile has “Unbeatable 5G Reliability” in addition to other express and implied claims. The challenge, which was filed by **AT&T**, centers around a 30-second TV ad and the Cox Mobile website that had a disclosure “Cox Mobile runs on the network with unbeatable 5G reliability as measured by Ookla, LLC in the U.S., 1H 2023.” Cox used RootMetrics’ nationwide 5G testing for its assessment of AT&T, **T-Mobile** and **Verizon’s** network performance. Cox also used RootMetrics testing this past October that evaluated devices used by Cox Mobile customers and also conducted head-to-head 5G reliability testing of Cox Mobile and its host network (Verizon). NAD found Cox Mobile established a reasonable basis to support its claims “Cox Mobile runs on the network with unbeatable 5G reliability,” “We run on the network with unbeatable 5G reliability” and “Cox Mobile runs on the network with unbeatable 5G reliability as measured by Ookla, LLC in the U.S.” Additionally, NAD found that the implied claim that Ookla conducted testing of 5G reliability is supported.

PISTONS JOIN OTA WAVE

The Detroit Pistons are the latest **NBA** team to make some of its games available over the air. The franchise is partnering with

Cablefax Daily (ISSN 1069-6644) is published daily by Access Intelligence, LLC | www.cablefax.com | 301.354.2101 | Editorial Director: Amy Maclean, 301.354.1760, amaclean@accessintel.com | VP/Group Publisher, Cablefax and Synopsis: Robbie Caploe, 917.974.0640, rcaploe@accessintel.com | Managing Editor: Sara Winegardner, 301.354.1701, swinegardner@accessintel.com | Associate Editor: Noah Ziegler, 301.354.1704, nziegler@accessintel.com | Director of Business Development, Cablefax: Ellen Kamhi, 917.626.5574, ekamhi@accessintel.com | Production Manager: Joann Fato, jfato@accessintel.com | Kerry Smith, Divisional President, Marketing & Media Group, ksmith@accessintel.com | Group Subs/Subscription Questions, Client Services: 301.354.2101, clientservices@accessintel.com | Annual subscription price: \$1,999.00/year | Access Intelligence, LLC, 9211 Corporate Blvd., 4th Floor, Rockville, MD 20850

Scripps Sports to broadcast five of its remaining nine games on TV-20 Detroit (WMYD). It's the first time the Pistons have inked an agreement with an OTA carrier since the 2007-08 season. The games were made available for local OTA distribution as part of the league's deal with **Diamond Sports Group**, which owns **Bally Sports Detroit**. Bally Sports Detroit will also simulcast the five games and provide the production team and on-air crew for the TV-20 broadcast. The first game as part of the agreement comes tonight at 7pm when the Pistons play the Grizzlies.

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MONUMENTAL ADDS ALTERNATE BROADCASTS FOR CAPS, WIZARDS

After moving into its new downtown D.C. studio recently, **Monumental Sports Network** is introducing live alternate broadcasts for Capitals and Wizards games. It'll have five alternate Capitals broadcasts and three for the Wizards through the end of the 2023-24 season, starting Thursday at 7pm when the Capitals play the Penguins. The Wizards' first alternate broadcast will come April 9 at 8pm against the Timberwolves. It'll be a similar format to **ESPN's** "ManningCast" for Monday Night Football games. Talent appearing for the Capitals' cast former Capitals player *Devante Smith-Pelly* and former coach *Bruce Boudreau*. The Wizards' edition will have former Wizards center *Jason Smith*, former team play-by-play announcer *Steve Buckhantz* and former Maryland star *Greivis Vásquez*.

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DISNEY, NAT GEO CELEBRATE EARTH MONTH

Disney and **National Geographic** have launched a new global cross-platform campaign to celebrate efforts to protect, restore and honor the planet. Dubbed ourHOME, the campaign will spotlight internal and external efforts and highlight creators, storytellers and other artists for their contributions. **Disney+** is marking the occasion with the launch of a content collection that includes the full library of Disneynature films as well as recent series "Queens" and "A Real Bug's Life." Disney will be making grants in excess of \$1 million to charitable organizations through the Disney Conservation Fund during the month, and funds will also be directed toward conservation and restoration efforts.

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I3 BROADBAND OFFERS SUBS CREDIT OVER FIBER CUT

After an unaffiliated third party caused a fiber cut that impacted a significant portion of its customers, **i3 Broadband** is applying a \$10 credit to each affected household. "We understand this gesture cannot fully compensate for your inconvenience, but please know that we continue to prioritize network reliability to prevent future issues," CEO *Paul Cronin* said in a statement.

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RATINGS

TNT Sports and **CBS Sports** kept the March Madness momen-

tum going into the second weekend of the men's tournament. The Sweet 16 averaged 10.3 million viewers across **CBS**, **TBS** and **truTV**, good for a 5% increase from last year. Thursday and Friday's games were both led by the late window. Alabama vs UNC and Illinois vs Iowa State on Thursday averaged 11.1 million viewers (up 10% YOY) and Duke vs Houston and Tennessee vs Creighton on Friday averaged 10.6 million (up 15% YOY). We're still waiting on numbers from the Elite 8 games Saturday and Sunday, but tournament viewership is averaging 9.3 million viewers across CBS and the TNETs through the Sweet 16. - **Warner Bros. Discovery** has been enjoying the ratings from **TNT Sports'** March Madness coverage, which combined with **Investigation Discovery's** "Quiet on Set: The Dark Side of Kids TV" and other shows for WBD networks to claim three nights of more than a 50% share among A18-49 in primetime across ad-supported cable the week of March 18. That helped WBD secure its highest share week of 2024 so far with a 46% share among A18-49 and a 43% share among A25-54. - **YES Network's** broadcast of Sunday's Yankees-Astros game became the third-most viewed Yankees game since the 2022 season after averaging 450,000 total viewers. The broadcast peaked with 680,000 total viewers in the New York DMA from 5-5:15pm (the ninth inning). It also garnered the most concurrent viewers for a Yankees game ever on the YES app, surpassing the previous record set Thursday on Opening Day.

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CARRIAGE

CHARGE! is joining the lineup of **ABC Owned Television Stations'** Dignet 3 after **Sinclair** struck a distribution agreement to make the OTA network available in leading markets. Those markets include NYC, L.A., Chicago, Philadelphia, San Francisco, Raleigh-Durham and Fresno, California. The agreement adds more than four million new OTA households for CHARGE! in addition to 3.73 million new pay TV/cable households. CHARGE! is now available in 109 U.S. markets and features programs like "Law & Order: Criminal Intent" and "CSI NY."

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FIBER FRENZY

Altice USA is adding a couple of cities to Optimum's footprint, unveiling plans to expand its network to Montclair and West Orange, New Jersey. Services are expected to go live in the two areas by mid-2024. Once complete, customers will get Optimum's full suite of services which includes up to 8 Gig symmetrical fiber internet speeds, TV and phone in addition to access to Optimum Mobile.

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OOPS

In Thursday's issue, **Cablefax** indicated that **MASN** was only available to video subscribers of two distributors, **Comcast** and **Fubo**. MASN is carried by more than 20 distributors across MASN's seven-state television territory.