Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Falling Apart: Operators Lament Broken Video Model, BEAD Rules

The video ecosystem is rapidly shifting by the day, and operators are doing their best to manage the volatility while also continuing to provide a product some customers are still asking for.

During a panel at Wednesday's 2024 Pennsylvania Broadband Summit, **Breezeline** President *Frank van der Post* said the whole video model has been destroyed by greed and a total disregard for the customer, and it all starts with exorbitant fees for items like sports content and retransmission consent.

"A lot of these companies are owned by private equity and obviously they are just milking the cow," he said. "The customer, at the end of the day, is paying twice. And they pay the distribution fees which they get from us, which are going up by crazy amounts, and then they are being enticed to go to the direct-to-consumer product and pay through that channel as well."

He does still feel like there is a role for an aggregator like cable operators as customers become fed up with the number of streaming services they have and the difficulty in trying to find the content they want across those platforms, but it's not an ideal situation by any means. "At the end of the day, if the **FCC** wants to regulate something, this is an area they could definitely be looking into," he added.

Armstrong President *Jeff Ross* said his company has about half as many video customers as it did at its peak, and while it is still in the business, it is going to do the best it can. "The irony of it all is I think the video product that we have right now is the best it's ever been. But it's clear to me that programmers want to have a direct relationship with their customers, and I don't think Armstrong or any of our sized companies are really going to change that," he said.

LHTC Broadband is moving away from its legacy television system in favor of an over-the-top solution, and while part of that is the need for a technological upgrade to stay ahead of the competition, money also played a role in the decision.

"Video loses money… it is an unsustainable model because the programmers just keep jacking the rates up every year, and on top of that, the real problem are these retransmission fees," LHTC President/CEO *Jim Kail* said. "We really have to find a way to cut our costs, and so as we're losing customers, our costs will start coming down because they become more variable as opposed to having all these fixed costs."

The summit, hosted by the **Broadband Communications Association of Pennsylvania**, brought in record attendance numbers of over 200 participants. A significant number of those attendees have concerns about BEAD program rules, with the decision of whether or not to participate weighing heavy on their minds.

Service Electric Cablevision SVP *Mark Walter* said the operator has always been funded with private capital and that remains its preference, but it also doesn't want to miss out on once-in-a-generation opportunities. Walter's hesitancy comes from previous situations where Service Electric has been burned by local governments. One local government reached out asking the operator to apply for funding to bring more FTTH to the area, and Service Electric successfully won the grant. It ordered the fiber, got everything in order for the pole attachments and then didn't hear back from the locality on how to proceed with the grant.

"Now we're in a situation where we've already spent the money. We need to get on these poles because otherwise we're going to lose that opportunity. So we basically had to go back to them and say, 'sorry, we can't do this,'" Walter said. "We're going to build it anyway because we've already got everything together, but we can't continue to wait because someone else is going to come along or something else is going to change and we've already allocated all these resources. We've got to get this project done."

Shentel previously participated in grant programs, including ARPA, but there is a hesitancy when it comes to BEAD because of the way the program is structured and the plethora of obligations that will be placed upon subgrantees.

"When you look at the strings attached to that program, there were many fewer strings with [ARPA] than there are with the BEAD program when you talk about potential rate regulation, labor requirements and these other reporting requirements," EVP/COO *Ed McKay* said. "We are very hesitant to jump into that."

The WHO and the WHY

CFX's spotlight on recent new hires & promotions

BRANDT
Haynes
SVP, DISTRIBUTION
STARZ

3 THINGS TO KNOW

- Brandt arrives at Starz following a year-long stint as COO/Head of Transformation for Girl Scouts of the USA. His appointment comes as the company's distribution team undergoes a transformation led by EVP/Chief Distribution Officer Sofia Chang, whom Brandt will report to. Brandt will oversee digital partner management and partner marketing and strategic marketing.
- He's no stranger to the direct-to-consumer space. Brandt was hired to help launch a DTC, ad-free podcast subscription service Pushkin+ in 2021, but before that spent 12 years at HBO and then two more at WarnerMedia following the Time Warner-AT&T merger. At HBO, Brandt played a key role in the 2015 launch of HBO Now, and as WarnerMedia's EVP, Distribution Business Planning, Strategy & Operations, he helped develop and execute a plan to maximize the launch of HBO Max across linear and digital platforms.
- Brandt, who received his Master of Business Administration from NYU, has been involved with various nonprofits and associations throughout his career. He is a former co-chair of the board of directors for Reaching Out LGBTQ+ MBA Conference, and is a former member of the marketing committee for DEG: The Digital Entertainment Group.

PA OFFICIALS SAY RATE REGULATION NOT IN BEAD PLAN

At a later session of the 2024 PA Broadband Summit, **NTIA** Federal Program Officer for Pennsylvania *Nicole Ugarte* pushed back against arguments that the agency is attempting to regulate rates through the low-cost broadband options that have to be laid out in every state and territory's Volume II proposal. "In our curing of these initial proposals, we watch particularly for overbuild and we watch for rate regulation because that is absolutely not allowed," she said. "I want to understand your perspective because I don't see the rate regulation there, and in every instance, there's going to be room for improvement." **Pennsylvania Broadband Development Authority** Executive Director *Brandon Carson* also pushed back against arguments that the state put forth rate regulation in its proposal. There's been particular concern about a $54/month figure that was included as part of a formula in the proposal for what the Pennsylvania Broadband Development Authority determined to be affordable for an individual in terms of what they can pay for high-speed service, but Carson made it clear that there is no requirement for operators to institute that rate and there is an understanding that the dollar figure may not be appropriate to support a network in a rural area. "We've asked that applicants when making applications, you tell us what you need to charge in those communities that you're proposing service to to ensure a sustainable network. I can't stress that enough. We're looking for sustainability and we're playing long ball on this," he said. "Don't get hung up on the $54. That's in there as a requirement of NTIA to define what is middle class affordability."

FRNDLY TV ADDS BROADCASTERS

Low-cost vMVPD option **Frndly TV** has inked deals to carry five **Scripps** stations and one **Marantha** station, and it's talking to more broadcasters about potential deals. "We're pretty close to our customer base, and they have been asking for locals for some time… I was looking at it and trying to figure out, is there a way we can do this without getting the Big Fours involved," said *Michael McKenna*, Frndly TV co-founder and Chief Programming Officer. "That's when it hit me that maybe we should reach out and see whether or not independent stations would be interested. We've been successful with six of them." Those stations are Scripps' **KDCO** (Denver – Independent), **WMYD** (Detroit – CW affiliate), **WACY** (Green Bay – Independent), **KMCI**

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(Kansas City – Independent) and **WHDT** (West Palm Beach, FL – Independent) along with Marantha's Philly indie station **WFMZ**. No details on the particulars of the deals, but it's worth noting that Frndly subscribers won't see their bills increase. Frndly TV's plans start at $6.99/month and include 40+ live TV networks, including **A+E**, **Hallmark Channel** and **Weather Channel**. This is the first time the vMVPD has offered local stations. The stations are expected to debut on Frndly's lineup in each market by April 30. McKenna said Frndly customers are primarily interested in receiving syndicated content and local news from broadcasters. "Our hope is that we can get more interest, but we'll see how our subscriber base reacts to these," he said.

BROADBAND LABELS ROLL OUT

Wednesday marked the nationwide launch of the **FCC**'s broadband consumer labels, requiring ISPs to display consumer friendly info on prices, speeds and more at the point of sale online and in stores. *President Biden* touted the initiative on social media channels, declaring that his administration is taking "a major step toward eliminating junk fees on internet bills." Broadband providers have had more than a year to prepare for the program, with Congress passing a law in 2021 requiring it and the **FCC** adopting rules for the labels in 2022. The process actually began in 2016 with voluntary labels. ISPs with less than 100,000 subs have until Oct. 10 to comply with the rules. That's also the deadline for providers to make the labels machine-readable to enable third parties to more easily collect and aggregate data for the purpose of creating comparison-shopping tools for consumers. **WOW!** is among the ISPs supportive of the labels. "With our simplified pricing, which means no contracts, no data caps and WiFi-enabled equipment included with our internet service, it aligns nicely with the intent of the label for a customer to see accurate, simple-to-understand information about services and pricing," *Michelle MacFee*, WOW!'s VP of Product Management, told ***CFX***. In a call with reporters about the labels, *John Donenberg*, Deputy Director at the **White House National Economic Council**, deviated from the main topic to make a plug for renewing the Affordable Connectivity Program. "The President is once again calling on congressional Republicans to act. If they don't millions of their own constituents will be at risk of seeing their internet costs go up, or the internet quality go down. They might even lose access entirely when the program runs out of money at the end of April," he said. "So it's really past time for congressional Republican leaders to step up and prevent their constituents' internet costs from increasing after next month." As for the labels, the FCC will monitor compliance through its usual methods, including public reporting and consumer complaints, with the Enforcement Bureau prepared to investigate as necessary.

FCC REVEALS MAX ACP PARTIAL REIMBURSEMENT AMOUNTS

The **FCC**'s **Wireline Competition Bureau** crunched the numbers and released updated figures Tuesday of what Affordable Connectivity Program providers should expect in terms of maximum partial repayments for the month of May. Absent additional funding from Congress, providers should expect to receive $14 for each $30/month subsidy they offer in May and $35 for every $75/month Tribal subsidy. When it comes to the ACP connected device benefit of $100 per device, providers will receive a maximum of $47. The calculations were made through a comparison of the estimated funding needs for May to the total non-obligated funds available in April. The bureau also looked at the total non-Tribal and Tribal subscribers in the National Lifeline Accountability Database, the total number of devices claimed since the FCC froze enrollment in the program and ACP account claims made to date.

2024 MASTERS

Golf's biggest event is soon. The Masters will take place Thursday-Sunday, with **ESPN** handling the first two days and **CBS** the final two. ESPN's coverage will run from 3-7:30pm both days with *Scott Van Pelt*, *Curtis Strange* and *Michael Eaves* handling commentator duties. **ESPN+** will have live streams of featured groups, holes 4, 5 and 6, "Amen Corner" and holes 15 and 16. Those streams will be available throughout the duration of the Masters. CBS will air from 3-7pm on Saturday and 2-7pm on Sunday. **DirecTV** is joining the Masters fun with the Master Mix channel available to DirecTV satellite customers. The channel offers multiple screens of featured groups as well as an interactive app that has access to leaderboards, tee times, scorecards and more. DirecTV Stream customers can also watch the event in 4K.

FIBER FRENZY

Ziply Fiber has started the construction process of its fiber network in Baker City, Oregon. The expansion will add over 2,500 homes and businesses once it's complete, but an initial 300 addresses are already able to receive service. Folks can get speeds ranging from 100 Mbps to 50 Gigs. – Maine-based **Fidium Fiber** is now available to over 3,000 homes and businesses in Wilton, Chesterville, Dixfield and Jay, bringing the provider's total footprint in the state to more than 250,000 locations (a 45% increase over the past year). Customers can access Fidium's symmetrical multi-gig speeds that range from 100 Mbps for as low as $25/month, to 2 Gigs for $85/month. Fidium has plans to expand to the Livermore Falls area soon. – **GoNetspeed**'s $4.8 million project to expand to over 4,800 homes and businesses in Ludlow, Massachusetts, has begun. The company kicked off construction of its infrastructure, which will eventually bring speeds from 250 Mbps to 2 Gbps. The first customers who can get service installation are expected to become eligible by the end of this spring. Construction is slated to be complete by late summer.

Think about that for a minute...

Ignore the Noise

Commentary by Steve Effros

You're going to be inundated shortly with stories about our good old standby "net neutrality." But the stories are likely to be bathed in hyperbole about what the FCC is likely to do, and then does, when it votes at the end of April to declare "BIAS" (broadband internet access service) a "utility" or "common carrier."

Is this action by the FCC a big deal? Yes. Will it become law? Not likely. The battle over whether broadband providers of internet access should be considered a utility that should be tightly regulated by the federal government has been going on for decades. As you all should know by now, the answer was no, then yes, then no over those decades. All of those decisions were made by a Federal commission that has never been given a statutory instruction from Congress to change the character of the industry. We're about to flip from no to yes again on the underlying fundamental issue of whether broadband should be regulated like the railroads, or the wireline telephone industry or water and sewer lines.

There will be lots of stories about the significance of the FCC's declaration that broadband should be tightly regulated. The rulemaking decision is over 400 pages long. You don't have to read it. The likelihood that all of that verbiage results in all of the potential rules designed to put "guardrails" around the broadband delivery industry (Comcast, AT&T, Charter, Verizon, etc.,) is very low. Why? Because there's a fundamental flaw in the consistency of the claims behind what this FCC says it wants to do, that is, massively change the current regulatory character of the industry.

Let's put this in somewhat simple English. Currently broadband internet access is supplied by multiple companies in most major communities. It comes via wire, cable, "5G wireless," and even satellite. It's lightly regulated and competition has gotten fierce providing the service. It does get a bit complicated on the business side, since there are "subscribers" who purchase delivery, but there are also "edge providers" like Google, Apple, Facebook, Tik Tok and the like who heavily use and rely on the service to deliver their products. Those folks don't want to have to foot any more of the cost of delivery if they can avoid it, and that's, essentially, what this argument is about. It's not about companies blocking subscribers from seeking and getting access to what they want, it's who pays for what.

Changing things to a "common carrier" regulatory scheme allows the FCC to be the arbiter, potentially, of business plans, pricing, and even the types of services that can be offered. That's a major change. It has a huge potential economic impact. And therein lies the rub.

Here's why all the noise is not likely to result in much; the Supreme Court, which is ultimately going to decide whether the FCC can do what it's proposing, has recently employed a new measure to determine the legitimacy of regulatory agency actions. It's defined thusly: "The major questions doctrine is a principle of statutory interpretation applied in United States administrative law cases which states that courts will presume that Congress does not delegate to executive agencies issues of major political or economic significance."

So while the many advocates of "net neutrality" have publicly argued for decades how critical, essential, and important it is to convert broadband into a "common carrier," the FCC, at the same time, now has to say that what it's doing is essentially "no big deal." That won't fly. If it's something of "...major political or economic significance" as all the advocates have long said, then the Supremes are going to say the Commission doesn't have any specific authority without a new statute from Congress to do it.

Ignore the noise.

Steve

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(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry. His views do not necessarily reflect the views of Cablefax.)