

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Diversity Probe: Why Comcast and What's Next?

FCC Commissioner Geoffrey Starks is citing Brendan Carr's own words to make an argument against him probing Comcast's [DEI actions](#). In dissenting from the FCC's adoption of a broadband access anti-discrimination law that the agency had to adopt under the Bipartisan Infrastructure Law, the then-commissioner blasted the Biden administration and FCC for creating a "framework that gives the FCC a nearly limitless power to veto private sector decisions."

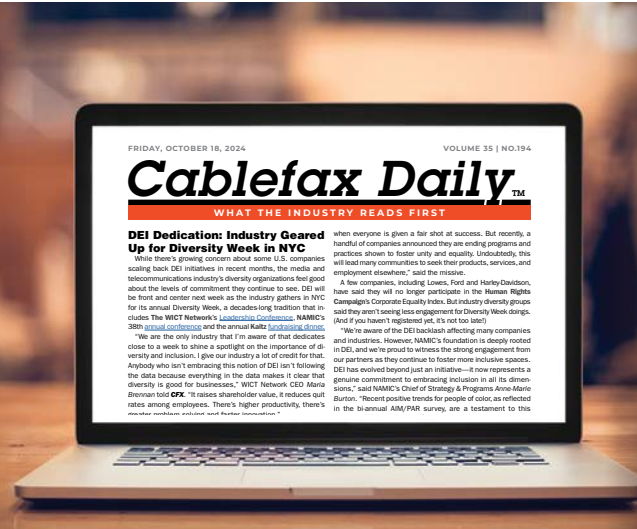
On Tuesday, Carr sent a [letter](#) to Comcast saying that as Chairman he's asked the agency's Enforcement Bureau to open an investigation into whether Comcast and NBCU are "promoting invidious forms of discrimination in violation of FCC regulations and civil rights laws," adding that the FCC "will be taking fresh action to ensure that every entity the FCC regulates complies with the civil rights protections enshrined in the Communications Act and the agency's EEO rules, including by shutting down any programs that promote invidious forms of DEI discrimination."

In his statement, Starks said he's asked for a briefing to understand the Enforcement Bureau's theory of the case, the authority relied upon and any prior precedent. "From what I know, this enforcement action is out of our lane and out of our reach," he said. **New Street Research's Blair Levin** also questioned the FCC's legal footing here. "Companies tend to be conservative in implementing such programs and while Carr and other conservatives may not like the effort, that does not

make them unlawful," Levin wrote in a research note. "The only legal authority we have seen Carr cite is an Executive Order. While an Executive Order may bind a government agency, it does not create a law that a private company must follow. Only a Congressional action or the Constitution can do that."

That doesn't mean there aren't political implications here, particularly if Comcast tried to do a transaction that needs the FCC's blessing. It also seems noteworthy that Carr singled out Comcast, when there are multiple companies regulated by the FCC that may have similar programs or language. **Fox Corp's** most recent 14A filing at the SEC says, "Our Board requires that minority and female candidates are presented for consideration with each Director vacancy. We believe that the more voices in the room and the more diverse the experiences of our colleagues, the better FOX's internal culture and external programming are. Our diversity enables us to be more reflective of the audiences we reach and enhances our ability to create news, sports and entertainment programming that serves all viewers across the country." **Warner Bros. Discovery** has a dedicated DEI [website](#) that declares, "Creating a culture of equity, inclusion, and belonging is imperative to our company's success."

Carr has launched multiple investigations, including whether **PBS** and **NPR** are in violation of rules preventing them from running commercials, whether **Disney** is fairly compensating broadcast station affiliates and over Big Tech's ties to media monitor **NewsGuard**. "Carr is using his investigatory powers in a variety of circumstances but so far, it has not resulted in



HELP YOUR BRAND STAND OUT FROM THE CROWD WITH Cablefax Daily

PARTNER WITH US TODAY TO:

- » Send targeted eblasts to an engaged audience comprised of senior leaders
- » Advertise in our Daily newsletter, send to 43,000+ readers
- » Promote your brand
- » ...And MORE!

For more information, contact Amy Abbey at 410.979.0171 or aabbey@accessintel.com

anything resembling a legal case,” Levin said.

With Carr mentioning EEO, it's worth noting that in February 2024 the FCC voted 3-2 to reinstate a requirement for broadcasters with five or more employees to file Form 395-B, listing info about employees' race and sex. The Commission had suspended the requirement more than two decades ago.

Carr dissented, saying he would have had no objection to an FCC decision limiting broadcasters to filing the form with the agency since Congress passed a statute that directs the FCC to collect this information. Instead, “the FCC decides that it will take the Form 395-B demographic data and publish it on a station-by-station basis—meaning that the FCC will now post a race and gender scorecard for each and every TV and radio broadcast station in the country. In doing so, the FCC caves to the demands of activist groups that have worked for years and across different industries to persuade the federal government to obtain—and most importantly publish—this type of data about individual businesses,” he said. “This is no benign disclosure regime. The record makes clear that the FCC is choosing to publish these scorecards for one and only one reason: to ensure that individual businesses are targeted and pressured into making decisions based on race and gender.”

Christian TV and radio broadcaster **TheDove Media** is challenging the rule as discriminatory and illegal. It is being represented for free by the **Pacific Legal Foundation**. The case is tentatively scheduled for oral arguments in the Fifth Circuit the week of March 31. “The order repeatedly justifies the collection and publication of workplace demographics so that the FCC can promote the ‘critical’ goal of ‘workforce diversity’ by measuring its ‘progress,’” TheDove said in its legal brief, citing Carr's dissent. An attorney with Pacific Legal Foundation said the firm intends to continue litigating this case against the FCC and has heard nothing from the agency that indicates a change in its litigating position. The FCC filed a brief in December defending its position and filed paper copies of the brief with the court yesterday.

PAI ON FIBER, BEAD, TRUMP GOALS

Searchlight Capital Partner and former **FCC** Chair **Ajit Pai** reiterated his confidence in fiber as the technology of the future during a **Fiber Broadband Association** event Wednesday. He described his firm is bullish on fiber not only because it is the broadband delivery technology of choice among consumers, but also because those buildouts are long-term investments that privacy equity firms can get behind and take a lower risk on. He pointed to a number of recent acquisitions of budding fiber companies as proof that there is a landmark shift of support behind fiber. “**Verizon** and **Frontier**, **Ziply** and **Bell Canada**, people are recognizing that there's something about fiber that gives it a very long lived infra-

structure lifetime, and that's something that's very attractive not just from an investment perspective, but importantly from a consumer perspective,” Pai said. The former public official also spoke to his role on the *Trump* transition team before the inauguration, saying he believes the president is singularly focused on making sure there is a formula in place from a policy perspective to build things in America, get rid of regulatory obstacles and ensure that high-quality networks are being built across the nation. He also celebrated Commerce Secretary nominee *Howard Lutnick* for his responses during his confirmation hearings, saying he thought Lutnick did a masterful job enunciating the point that everybody expects the government to get the benefit of the bargain when it comes to the BEAD program. “The bargain was that we will allocate this \$42 billion in public spending, and we will do it in an efficient way that gets consumers connected to broadband,” Pai said. “I think that basic principle is so important. Let's get rid of some of the regulatory overhang that stands in the way of these funds being distributed, make sure that we as Americans are seeing these monies being spent wisely, and let's just get people connected.” Fiber Broadband Association President/CEO *Gary Bolton* noted during the event that the organization's Regional Fiber Connect held Tuesday in San Antonio set an attendance record thanks to a high level of interest powered by Texas being the largest recipient of BEAD infrastructure funding. FBA's policy committee was in Austin Wednesday speaking with the state legislature to see how it could work with lawmakers to ensure fiber is delivered to every community across the state.

MSNBC MAKES KUTLER PRESIDENT

MSNBC has its new leader. After taking over for *Rashida Jones* [on an interim basis](#) last month, the network is removing the interim tag and making *Rebecca Kutler* its new President. Kutler, who joined MSNBC as SVP, Content Strategy in 2022 after spending over 12 years at **CNN**, will be tasked with navigating MSNBC through its spinoff from **Comcast** and into **SpinCo** on top of ongoing coverage of President *Trump*'s first 100 days and beyond. Although her interim tenure was less than a month, she helped the network rebound after a post-election ratings slump thanks to moves such as putting *Rachel Maddow* back in the weekday 9pm hour slot. Last week, MSNBC posted an average of 1.15 million viewers P2+ in prime and 657,000 in total day—both good for No. 2 among cable nets. It does, however, still have work to do in the A25-54 category as last week's primetime average came in at 118,000 while the total-day figure was 72,000.

AN AD-TASTIC SUPER BOWL

With this year's Super Bowl commercials going at a reported av-

In The
WILD

A Cablefax feature highlighting industry doings spotted in the real world.

Super Bowl Commercials

Millions of people across the country spend every Super Bowl Sunday watching the culmination of another football season, but when the day comes, it's only two fanbases that remain having a rooting interest. So, the rest of us are forced to resort to a time-less tradition: watching to see the funniest, craziest and most memorable commercials.

Considering this year's big game was a blowout by halftime (congratulations to **CFX's** Eagles fans), it left others—especially those rooting for the Chiefs—more time to scrutinize every advertisement. There were the Super Bowl commercial mainstays like Budweiser and its Clydesdale horses, Dove and Dorito's, but we spotted a few familiar companies looking to leave a lasting impression on the 127.7 million viewers who tuned in.



Tubi, one of the digital platforms airing the game, had a few commercials that viewers might've spotted. The free streamer [aired a 15-second promo](#) that mimics social media's "brain rot" humor to promote its original comedy series "The Z Suite." It also had a few spots part its new ad campaign "If It's In You, It's In Here," which [features a man born with a flesh-made hat](#) as part of his head as he encourages people to embrace what they love. Safe to say Tubi is sticking with its eccentric branding as it continues to expand its user base.

YouTube TV kept with its expedition of flaunting its ease of use for sports lovers, [portraying the evolution of fans](#) throughout time and the different elements needed to overcome in order to catch a game. Alongside Tubi and YouTube TV, Disney+ was among the few streamers that aired a commercial, but it came with mixed reactions. The "What If" [spot](#) posed scenarios such as "What if there was no galaxy far, far away, and there was no Joy, and they never did assemble," referencing the company's "Star Wars," "Inside Out" and "Avengers" franchises. However, some were quick to point out that a large portion of franchises shown in the spot were assets that were purchased rather than created by Disney itself.

Some might've seen actor *John Stamos* featured in an ad for Zeam Media, an OTT solutions provider and owner of the hyperlocal streamer Zeam. The spot [aired in over 40 top markets](#) across the U.S. and touted Zeam's local focus as the service hosts nearly 300 local broadcast stations. Stamos, who holds the title of Zeam's Chief Innovation Officer, was featured in a local spot last year as well.

Whose ad reigned above all? Editorial Director *Amy Maclean's* favorite was Uber Eats' commercial with *Matthew McConaughey* [pitching a movie](#) to *Greta Gerwig* about how football was invented to sell more food. Managing Editor *Sara Winegardner* said she won't forget the [Mountain Dew spot](#) that had musician *Seal* turn into, well, a seal. My pick goes to the Budweiser [spot](#), but as a pickleball enthusiast, hat tip to Michelob Ultra's "[The ULTRA Hustle](#)." – *Noah Ziegler*

erage rate of around \$8 million for a 30-second spot, **Fox Corp.** reaped the benefits to the tune of more than \$800 million in gross revenue from advertising sales across all platforms. Fox at least confirmed record pricing for commercials in addition to inventory being sold out. [On Tuesday](#), the network said 127.7 million viewers watched the Eagles' dominant win across all platforms, with Tubi contributing an average minute audience of 13.6 million.

PHILO'S LATEST MOVES

Philo is making sure it remains in the heat of the streaming wars. The SVOD said it now carries 1.3 million subscribers with 20% YOY subscriber growth seen in 2024, putting it on track to turn profit for the first time this year. Philo, which doesn't regularly disclose financial results since it's a private company, made an exception this time around after reporting \$450 million in annual revenue for 2024. The momentum has carried into 2025, with Philo revealing the acquisition of **Row8**, a TVOD service that offers movies for folks to rent or purchase. Row8 is expected to be added to the platform by 2026. Additionally, Philo is bringing on *Edward King* as its Chief Product Officer. He joins the team following a nearly eight-year stay with **Tubi** as VP, Product.

TV TAKES OVER YOUTUBE VIEWING

With **YouTube** ready to celebrate two decades since launching come Friday, CEO *Neal Mohan* reflected on the platform's growth while staking his bets for what's to come in 2025. In a letter posted [online](#), Mohan revealed that TVs have eclipsed mobile phones as the primary device for YouTube usage in the U.S. based on watch time, according to **Nielsen**. While he made sure to boast the cultural presence YouTube has and its impacts on content in general, Mohan saved a section of his letter with the headline "YouTube is the new television." On average, over 1 billion hours of YouTube content are viewed on TVs daily, helping fuel growth in other areas as well. "Our growth on connected TVs is also attracting new advertisers and we continue to introduce formats that work particularly well on the big screen," Mohan wrote.

FIBER FRENZY

Shentel's Glo Fiber revealed its next expansion projects. It reached an agreement to deploy FTTH services in Berryville, Virginia, with construction to begin this summer. Glo Fiber expects to reach an estimated 1,800 homes and businesses. Moving toward Hampton Roads, Glo Fiber also announced the opening of a retail store in Suffolk as well as further expansion in the area. The company currently reaches over 17,000 homes and businesses in Suffolk, but it plans on adding more than 8,000 locations by year-end. – **Lumos** is moving forward on its expansion into Franklin County, Ohio. It's the fourth large-scale build Lumos will have in Ohio and will lay over 1,000 miles of fiber throughout the Columbus area. The project will add 110,000 homes and businesses to its footprint. Engineering work is underway, and construction is scheduled to start in 1H25.

Celebrate AI in Communications Customer Service

Over the last many years, policymakers have been both captivated and made uneasy by the possible advances brought forward by Artificial Intelligence (AI). Visions, predictions and concerns about what AI may deliver to society have been as varied as the number of stars in the sky. For the communications sector, any general AI-angst could delay integration into its business practices. Under this constraint, a strong case can be made that customer service and repair will be early areas where AI can be adopted without poking AI-skeptics. For that to happen, however, policymakers must avoid the adoption of potentially well-intended, but ultimately adverse, AI policies.

The history of the communications industry's customer service practices is blemished. Overall complaint levels have ebbed and flowed with the rise and fall of particular sectors and the thrust of competition. Many past companies with egregious practices no longer exist (e.g., long-distance providers) or have improved their game (e.g., cable installation windows); others have fallen in the wrong direction. To hear regulators tell it, the number one consumer complaint is illegal robocalls, perpetrated by fraudsters. Setting this aside, the communications industry has picked up performance through significant investment in time and talent. Yet, AI presents a unique opportunity to radically decrease customer problems.

With a hat-tip to reality, AI is already embedded in certain aspects of communications customer service software. These are not the old setups where consumers were pushed to never-ending, call-forwarding hell. Instead, calls, texts, emails, social media tags, pop-up chatbots and other mechanisms deliver consumers to appropriate answers and assistance. In fact, the consumer-facing experience and the back office operating systems are designed to lead customers either to the proper resolution or escalate unresolved issues, as necessary. And AI is helping make this software more responsive and intuitive, learning from a company's past experiences and unique characteristics to decode patterns and areas of need.

Future communications AI could look even better. There is a fairly strong likelihood that consumers will never again be considered disconnected from a network, platform or service. As such, AI software could automatically install any improvements, diagnose outages, run tests, install repairs, etc. on an ongoing basis. Everything becomes self-healing, seamlessly without any consumer or company staff interaction of these functions. Apple, for example, could dissolve the practice of forcing system upgrades. Consumer

inquiries, if ever arising, could be “answered” by AI offerings and solutions executed in real time. Application of a cross-section of AI specialties, in fact, could generate efficiencies in costs and security, as well as improved reputations.

For a truly sci-fi image, combining AI with advanced robots and drones could have the capacity to replace network outages or install any physical plant. The droids introduced in the Star Wars series are not that far afield and could become operational to repair any downed wire, self-provision any service, drop a needed hot spot, serve as a wireless cell and more. AI doesn't mean reduced jobs or lacking human oversight, but everyone will benefit from fewer unnecessary truck rolls.

To allow any of these consumer services enhancements to happen—and the customer benefits to flow—means that policymakers at all levels, especially states, must not strangle their development. Nearly a day goes by without a new bill or initiative being presented as a way to “fix” AI somehow. But that's a recipe for failure. AI innovators and companies that would use such technology can't flourish if there are barriers imposed by ill-informed policymakers. They also won't take the necessary leaps if there are constant threats by government or unstable ground in the marketplace as a result. If haste makes waste, then uncertainty delivers paralysis and bad AI policy begets calamity.

AI has the capability to unlock a wealth of possibilities and eviscerate customer service complaints for communications companies. From the bland to mind-blowing options, integrating AI further into normal business practices of these companies can improve customer experiences and brand reputations—but only if government does not strangle the process in the meantime.

(Michael O'Rielly is a former FCC Commissioner and congressional staffer who serves as President at MPO-Rielly Consulting. His views do not necessarily reflect the views of Cablefax.)

