

# Cablefax Daily™

Wednesday — August 29, 2018

What the Industry Reads First

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## Petition to Deny: Altice USA Wants MVNO Assurances with Sprint/T-Mobile Merger

**Altice USA**, which plans to begin offering wireless service next year through a regional MVNO with **Sprint**, has asked the **FCC** to deny or add conditions to a **Sprint** and **T-Mobile** combination. The company told the FCC that it's confident in its ability to enter the wireless market in 2019, but it has concerns about the opportunity to expand its wireless service nationwide over the long term because the two companies have made no commitments regarding meaningful support for current MVNO partners. "The concerns of Altice are magnified in view of T-Mobile's hostile statements against MVNOs, including cable operators entering the wireless market," Altice USA said in its petition, which was due at the FCC Monday. "The furthest thing from my mind is any concern about the impact of cable... I think they are incompetent and they don't belong in wireless without having owner economics," T-Mobile pres/CEO **John Legere** said during the company's February earnings call, two months before the \$26bln merger was announced. Altice USA is concerned that Sprint and T-Mobile had the most motivation to enter into competitive MVNO engagements, and that incentive will be gone. If the FCC doesn't deny the deal, it should at least require the "New T-Mobile" to commit to honor existing MVNOs and offer existing MVNO partners the best wholesale terms and conditions for the full term of agreement or for 10 years post consummation (whichever occurs later). It also suggests New T-Mobile be made to divest spectrum that exceeds the spectrum screen in order to make assets available to MVNOs and smaller wireless players that need spectrum to compete (provided divestiture partners aren't associated with **AT&T**, **Verizon** or the new company). Others who have asked the FCC to deny the deal include **DISH**, which argued that Sprint and T-Mobile are potential 5G competitors that likely can succeed without merging, and the **Rural Wireless Association**. While the wireless companies cite DISH's prospective wireless entry, DISH said it will only be a competitor in the Internet of Things market in the first phase of its network deployment. "While DISH plans to aggressively upgrade and expand that network to full 5G in the future, the timing of the transition will crucially depend on, among other things, scarce inputs (e.g., radios, devices and chipsets) that the merger could make scarcer still," DISH said. Consumer groups including **Free Press**, **New America's Open Technology Institute** and **Common Cause** also are seeking to stop the merger. Charter neither opposes or supports the deal, but submitted

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comments to note that it's not a major competitive presence in the marketplace and to clarify that its agreement on development and back-end systems with **Comcast** does not amount to a combined mobile service offering between the two. The four nationwide mobile carriers collectively provide 411mln mobile connections (98% of US connections), with the next largest player **US Cellular** at 5mln. **AT&T** took no position in its comments, but supplemented the record with details on its 5G deployment plans. T-Mobile and Sprint have said their merger will force AT&T and other competitors to move faster on 5G. However, AT&T said it's already in a race to deploy the next gen services—with the race beginning long before Sprint and T-Mobile announced their merger plans. In addition to detailing its 5G milestones, AT&T pointed to T-Mobile's plans to bring 5G to 30 cities in 2018, including NY, LA, Dallas and Vegas, and Sprint's plan to provide 5G mobile commercial services and devices by the first half of 2019.

**Gray Area:** **ACA** responded to **Gray Television's** proposed purchase of **Raycom Media** on Monday. If the deal goes through, Gray would own 124 TV stations, 62 of which are ranked first in all-day **Nielsen** ratings in their local markets. This would be the highest number of top-ranked stations owned by any broadcaster, even though Gray has pledged to divest stations in nine markets. **ACA** rejects this proposition, stating that the purchase of the stations will result in considerable national consolidation which will then raise retrans consent prices. "The Commission cannot ignore this harm, but rather must weigh it against the benefits of the transaction," the statement reads. "Second, Gray's divestiture plans themselves raise concerns similar to those raised in the **Sinclair-Tribune** proceeding about how such divestitures would impact so-called "after-acquired clauses." **ACA** is calling on the Commission to prevent Gray from triggering any after-acquired station clauses in retrans agreements with MVPDs for the acquired stations it commits to divest. **DISH** also commented on the proposed acquisition, stating that the application failed to meet the burden of proof that the transaction serves public interest. "The Application provides a few pages of unverifiable and unquantified benefits, instead relying on conclusory assertions that the transaction will bring 'synergies' that will allow the combined entity to 'expand its service to all of its local communities.' And, the Applicants say nothing about the transaction's competitive effects. They do not offer any expert economic testimony on the harms, the benefits, or how the latter offset the former. Nor do they supply any factual declarations in support of their benefit claims," **DISH** said.

**CAF II Auction:** The **FCC** released Connect America Fund Phase II auction results Tuesday, with 103 providers winning some \$1.488bln in support over 10 years. The **FCC** said more than 700K rural homes and small businesses will gain access to broadband for the first time, with more than half of those locations to have download speeds of at least 100mbps. Missouri is receiving the most support, \$254.7mln, followed by California (\$149mln) and Oklahoma (\$113mln).

## Congratulate and Reach the Most Influential Minorities in TV, Cable and Broadband

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**Artwork due:** September 21

**Save the Date: October 16, 2018**

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Bidders receiving the largest amount of support include **AMG Technology Investment Group** (\$281mln), **Wisper ISP** (\$220mln), **Rural Electric Cooperative Consortium** (\$186mln) and **Viasat** (\$122mln). **Midcontinent** was the ninth largest winner with \$38.9mln in support for 9371 location. **Altice USA** and **Cox Communications** were qualified bidders, but are not listed among winners. Entities winning support include **Verizon** (3361 locations/\$9.47mln), **Armstrong** (1,949 locations/\$2.64mln in support) and **Cincinnati Bell** (342 locations/\$1.098mln). Of the 711,389 locations to receive support, 53% will have broadband available with download speeds of at least 100mbps, 19% will have gigabit service available, and all but 0.25% will have at least 25 Mbps service available, the FCC said.

**Digging Up the Past:** *Sens Ed Markey (D-MA), Ron Wyden (D-OR), Richard Blumenthal (D-CT) and Rep Anna Eshoo (D-CA)* came together for a telephone press call Tuesday, blasting Supreme Court nominee *Brett Kavanaugh* for his opinions in the net neutrality debate. Markey harkened back to Kavanaugh's argument in the **United States Telecom Association's** 2017 case against the **FCC**, which stated that net neutrality rules infringed on broadband providers First Amendment rights to censor user content. "No court has ever agreed with Judge Kavanaugh's argument and with good reason," Markey said. "The courts have recognized that a broadband provider is merely facilitating the transmission of speech of others and not engaging in speech in its own right. Just because someone uses a soapbox doesn't mean the soapbox has First Amendment rights." Markey, Eshoo and 103 members of Congress filed an amicus brief with the DC Circuit Court of Appeals, offering their support to those wishing to overturn the FCC's repeal of Title II. "The FCC's reclassification decision in its 2017 Order is based entirely in the misuse of language," the brief reads. "It is divorced from the practical realities that supported the FCC's 2015 classification decision." Markey and Eshoo served as conferees in the lead up to the passage of the **1996 Telecommunications Act**, roles the pair said make them uniquely qualified to tell the court precisely what Congress intended with the legislation.

**FCC BDS Win:** The Eight Circuit Court of Appeals mostly upheld the **FCC's** decision to ease regulation of business data services of ISPs. It remanded the issue of transport to the FCC for further proceedings, something chmn *Ajit Pai* described as a narrow procedural issue that he and his colleagues will address. Challengers claimed the FCC's competitive market test used to deregulate ILEC DS1 and DS3 special access services was inconsistent with the law.

**Rising Up:** While cryptocurrency is still far from becoming the norm, blockchain's continued growth doesn't have it going away anytime soon. According to **PwC's** 2018 Global Blockchain 2018 survey, 84% of 600 executives have at least some involvement with blockchain technology. Of these companies, 32% remain in the development stage, moving quickly to be able to take advantage of blockchain's capabilities. While there are plenty of advantages (lower costs with greater speed and reach, higher traceability and security), the barriers blocking blockchain's mainstream adoption aren't anything to scoff at. 48% cited regulatory uncertainty as a major concern while 45% pointed to a lack of trust among users. Other worries included separate blockchains not working together (41%), intellectual property concerns (30%) and the ability to bring an entire network together with the technology (44%).

**Kings and Queens:** **Parrot Analytics** is working with **Guinness World Records** to identify the most in-demand TV series and digital originals around the world. This marks the first year that digital originals are included, a move to honor the content produced by streaming services. **HBO's** "Game of Thrones" earned the title of most in-demand show in the world while **Netflix's** "Stranger Things" rose as the most in-demand digital original series in the world for 2017. They're included in the Guinness World Records 2019 edition, which will be available in bookstores and online on Sept 6.

**Programming:** **Fuse Media** expanded its partnership with **UnidosUS** by announcing a revival and reimagining of the ALMA Awards (American Latino Media Arts). After a three-year hiatus, the awards will celebrate Latinos in the arts, media, music and entertainment. -- **BBC America** will air a 5-day "X-Files" marathon in honor of the show's 25th anniversary. It begins on Sept 10 at 6am and will end on Sept 14.

**Sneak Peek:** **Smithsonian Channel** is partnering with **DISH** for a free preview that will run from Aug 30 to Oct 2. The Channel will be available across DISH's entire footprint. Smithsonian is in DISH's America's Top 250 package. -- **Showtime** will be available to more than 71mln households this weekend as part of a Free Preview Weekend. Viewers will have access to current and past episodes of Showtime original series and a sneak peek of the new half-hour comedy "Kidding" starring *Jim Carrey*.

**Reunited:** The **SCTE-ISBE Cable-Tec Expo** will serve as the venue for the first-ever meeting of the SCTE-ISBE Tuck Alumni Association. The alumni meeting for graduates of the SCTE-ISBE Leadership Institute at Tuck Executive Education at Dartmouth will feature a networking reception as well as insights from **BigHeads Network** founder *John Palumbo*, author *Tish Squillaro* and motivational speaker *Grace Killelea*. It will be held Oct 22 from 1-4pm.