

Cablefax Daily™

Monday — February 10, 2020

What the Industry Reads First

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Deadline Debate: LFAs Push Back on 30-Day Notice Change

While the cable industry is, not surprisingly, all for the FCC doing away with a requirement that operators provide 30-day notice of potential programming changes when they're in the midst of program and retrans negotiations, the franchises they serve aren't as keen on the idea. "Commission precedent is clear that the 30-day notice requirement provides subscribers with the opportunity to make their voices heard before any programming changes are made, and allows customers to make arrangements to secure dropped channels through alternative means," said a joint FCC filing from the cities of Boston, Portland and L.A. as well as various communities in Texas and Maryland. The FCC voted unanimously in December for an NPRM that proposes changing the requirement to "as soon as possible" when service changes occur due to retransmission consent or program carriage negotiations that fail within the last 30 days of a contract. In their joint filing, the Local Franchise Authorities argued that the "as soon as possible" notice for failed negotiations should be included in addition to the 30-day notice, not in lieu of it. They believe waiving the 30-day notice would only serve as an incentive for parties to postpone negotiations. And that's when they pulled out a quote from fictional Greek demigod Percy Jackson: "Deadlines just aren't real to me until I'm staring one in the face." It was a bit of a quote-off, with FCC chmn Ajit Pai using a line from "Star Trek: The Next Generation" to justify that the 30-day notice is unnecessary because these negotiations are often resolved at the last minute: —"A deadline has a wonderful way of concentrating the mind." (Yes, lawyers are geeks at heart). The FCC's proposal came after Charter asked it to clarify that the requirement shouldn't apply when a cable operator and programmer/broadcaster remain in negotiations. NATOA is on the side of keeping the 30-day notice, arguing that its elimination would do nothing to alleviate customer confusion. As for the NPRM's stance that LFAs have authority to require cable operators to provide advance notice without the FCC requirement, NATOA believes retaining the rule is far more efficient than obligating every LFA to enact local customer service standards. NCTA's stance: "Thirty-day advance notice of possible but unlikely service changes would therefore harm rather than help consumers by causing significant confusion and frustration." The cable operator association also wants the FCC to go a bit farther and clarify that advance notice isn't required in situations beyond an operators' control, such as a change in control of a broadcaster; programmer bankruptcies; the loss of distribution rights by a programmer; programmer decisions to go off the air, or a programmer



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WHEN:

Wednesday, February 12, 2020

4:00pm - 5:00pm – Mentoring Roundtables

5:00pm - 6:00pm – Panel Discussion

CCTA Reception:

6:00pm - 8:00pm - "Salute to Sports Heroes & Legends"

WHERE:

Estancia LaJolla Resort

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RSVP: Richelle Orlando ro@calcable.org

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CCTA Winter Board Meeting*
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substantially changing their programming or rebranding. While all five FCC commissioners voted for the NPRM, Jessica Rosenworcel and Geoffrey Starks have made it clear they want the notice to probe for potential consumer harms if the 30-day notice is removed. As of our deadline, there were no comments in the FCC docket from programmers or broadcasters. In 2018, **Starz** filed an FCC complaint against **Altice USA** for not providing 30-day notice before removing its channels. The complaint was dropped after the two reached a deal.

XFL Takes a Gamble: It's opening weekend for the XFL, and **Fox Bet** is now an authorized gaming operator for the league. The mobile sports betting brand will promote and offer XFL-centric betting markets to its customers, and create a Fox Sports Super 6 game for each week of the XFL's 10-week regular season, as well as one for its postseason semi-finals and championship game. The free-to-play game will offer guaranteed cash prizes. Fox Bet is currently available in NJ and PA. **FanDuel** joined rival **DraftKings** as an official fantasy sports partner, and will also collaborate on custom content and promotions for FanDuel customers. XFL and **The Action Network** announced a sports betting content partnership, with The Action Network providing sports betting content for the league's website. The company will develop multiple content features each week, including daily news, analysis of games and performances, and picks and projections.

Filling the C-band Holes: The FCC released the draft order detailing procedures for the long-awaited C-band public auction Friday, answering a few questions chmn **Ajit Pai** left unanswered during his initial announcement. Eligible small business and very small businesses will receive bidding credits should they choose to participate, but so will rural service providers. The rural provider bidding credit awards a 15% credit to those that service predominantly rural areas and that have fewer than 250K combined wireless, wireline, broadband and cable subscribers. "In this proceeding, a variety of organizations and associations that in turn represent the providers that serve the most rural and sparsely populated areas of the country have come together to stress that 'rules [for bringing this spectrum to market] should balance the competing needs of interested parties and offer meaningful opportunities to providers of all kinds and sizes to offer spectrum-based services to rural consumers,'" the FCC said in the draft order. Winning bidders will receive 15-year licenses. The draft order also shed light on the accelerated relocation payments that will be divvied up and given to the C-band's satellite incumbents, should they meet the FCC's milestones. **Intelsat** could receive up to \$4.9bn in total payments and **SES** would see nearly \$4bn. **Eutelsat** would receive \$467.9mln followed by **Telesat** with \$374.8mln and **Star One** with \$13.6mln.

DC Circuit Passes on Net Neutrality: Late Thursday, the US Appeals Court for the DC Circuit denied petitions from **INCOMPAS**, **Public Knowledge**, various states and tech groups to reconsider a ruling that mostly upheld the FCC's 2017 Restoring Internet Freedom order. In October, a three-judge panel upheld the FCC's repeal of Title II classification for



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broadband, but vacated the preemption provision that would have barred states from imposing any requirement more stringent than the FCC’s rules. The court did not present comment on its decision not to rehear the case. “Rehearings and en banc reviews are rarely granted. We look forward to continuing to fight for an Open Internet in Congress and in statehouses across the country—and one day working with an FCC that recognizes its important role in protecting broadband users,” said PK legal dir *John Bergmayer*.

T-Mobile Open to Partnering:

T-Mobile’s energy has long been spent trying to complete its merger with **Sprint**, and should it be allowed to move forward, the “Un-Carrier” is turning its attention to the doors its enhanced network will open. It may even end up partnering with cable through MVNO agreements, T-Mobile CEO *John Legere* said on the company’s 4Q19 earnings call Thursday. “The New T-Mobile is all about capacity, just an unprecedented expansion in network capacity,” he said. “We have a real interest in growing the wholesale side and the retail side of the business. So, we’d entertain it, absolutely.” Legere also said that should the merger be blocked, there are still plenty of options for T-Mobile and Sprint to work together to enhance both their networks. One could be a spectrum sharing agreement that would satisfy T-Mobile’s need for more spectrum to power its 5G network.

Cablefax Dashboard

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susan swain (@cspanSusan) Here are my #Senate tally sheets from this afternoon’s votes on the two articles of #impeachment. #history



Up Ahead

- Feb 7:** Cablefax 100 Nominations Due
- Feb 10-12:** Caribbean Cable Telecommunications Association Annual Meeting; The Bahamas
- Feb 16-18:** NCTC Winter Educational Conference; Las Vegas
- Feb 24-27:** MWC 2020; Barcelona
- March 10:** FSF 12th Annual Telecom Policy Conference; DC
- March 17-19:** ACA Connects Summit; DC

Quotable

“Our position is not that states lack standing to sue for antitrust violations... Instead, our position consists of three straightforward and related points that flow from Supreme Court precedent. First, Congress treated states as private parties for purposes of antitrust enforcement... Second, where the United States has already secured relief in a merger case, a court must take that relief into account... Third, courts should not award any private party, including the states, relief that is incompatible with relief secured by the federal government. -- **DOJ Antitrust Chief Makan Delrahim** at the *Media Institute*

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