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WHAT THE INDUSTRY READS FIRST

Equal Access: Industry Weighs in on Digital Discrimination Rules

The **FCC** is continuing to hear from cable operators and industry stakeholders on digital discrimination and redlining, but **AT&T** is vehement that the agency is giving too much attention to an issue that simply doesn't exist on a systemic level.

Its basis for the belief is a report prepared by former FCC Chief Economist *Glenn Woroch*, who combined the most recently available census-block-level wireline broadband deployment data from the Commission's Form 477 reports with demographic and income data published by the **U.S. Census Bureau** for his analysis. He then compared broadband availability rates for wireline 100/20 Mbps service between census-based "white" and "non-white" households and between households above and below the Federal Poverty Guidelines.

According to *Woroch's* analysis, 88.8% of white households have access to 100/20 Mbps service compared to 93.8% of non-white households. On the income side, 90.5% of households above the Federal Poverty Guideline have access to that service compared to 89.5% of those below it. AT&T said the results are "robust" across different data slicings and directly refute assertions by some that broadband providers systemically favor higher income or non-minority households when choosing where to deploy broadband services.

"The commenters who invoke Section 60506 to justify massive new regulation make no similar effort to evaluate this recent deployment data," AT&T said in reply comments to the

Commission. "Instead, such commenters either just assume that systemic deployment disparities exist or rely on articles published by advocacy groups on their websites."

MMTC [Multicultural Media, Telecom and Internet Council] begs to differ. The public interest tech organization argued that commenters that claim there is no ongoing digital discrimination are operating with interpretations of the term that are too narrowly construed or don't capture exactly how most discrimination occurs. MMTC prefers **Public Knowledge's** definition of the issue: "[A]ny time when one community has better broadband service than another, when the meaningful difference between the communities is the demographic characteristics, including the economic status, of its residents." With that definition in mind, MMTC said service providers' network deployment and upgrade decisions are proof that discrimination is occurring in the broadband access space and that its both common and systemic.

"For instance, when providers deploy fiber in major metropolitan areas such as Oakland and Los Angeles, low-income neighborhoods are often left out despite the fact that these neighborhoods are densely populated, which is a factor that generally provides a strong economic and network rationale for fiber deployment," MMTC said, arguing in its comments that because income and race have historically been highly correlated, discriminating on the former is often synonymous with discriminating on the latter. "That is, despite the proffered business rationales providers make for their deployment deci-



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sions, their disregard for the societal conditions in which those decisions are made mean that their decisions ultimately may serve to perpetuate digital discrimination.”

So how should the Commission move forward? **ACA Connects** believes that Section 60506 requires that the FCC adopt rules concerning the elimination of digital discrimination that are tailored to actual instances of discrimination. In other words, it is asking the Commission not to place broad mandates on service providers in order to ensure the facilitation of equal access. Instead, it continues to think that the FCC would be putting its best foot forward if it focused on prevention of acts of discrimination.

“Fundamental to this perspective is the fact that Congress made no finding of discriminatory practices by BSPs [broadband service providers], and the record developed so far in this proceeding only points to a handful of well-worn studies that do not accurately reflect BSPs’ practices or the economics of providing broadband service and deploying, maintaining, and upgrading broadband networks,” ACAC said in its reply comments.

EU OKAYS MAJOR BIG TECH REGULATIONS

EU lawmakers are officially moving forward with major Big Tech regulations, approving both the Digital Markets Act and Digital Services Act Tuesday. Together, the rules will block companies from combining personal data for targeted advertising unless a user expressly consents and require that the largest messaging services, like iMessage and Whatsapp, interoperate with smaller messaging platforms, if they so request. Online service providers must also abide by new consumer protection rules

and will be held accountable for how they moderate content on their platforms. The regulatory framework is being regarded by many as one of the better approaches that has been floated globally to managing data privacy and Big Tech platforms, but it isn’t perfect. The **Electronic Frontier Foundation** believes it gives way too much power to government agencies to flag and remove illegal content, among other things. “Far too many proposals launched since work on the DSA began in 2020 posed real risks to free expression by making platforms the arbiters of what can be said online and the DSA avoids many of them,” Electronic Frontier Foundation International Policy Director *Christoph Schmon* said in a statement. “That being said, we can expect a highly politicized co-regulatory model of enforcement with an unclear role of government agencies, which could create real problems.” There’s a lot of ambiguity that comes with the rules, meaning time will tell how Big Tech platforms interpret their legal obligations and how EU authorities enforce them. The European Commission will be the primary enforcer of the Digital Markets Act and will also play a role in the enforcement of the Digital Services Act, but some are afraid it doesn’t have the human or technical resources to adequately complete either task. In a joint letter sent last week, organizations including the **Center for Economic Justice**, the **Balanced Economy Project** and **Privacy International** warned members of the European Parliament that without the hiring of experts and the allocation of additional resources, Big Tech companies may not take the new regulations seriously. “If the Commission lacks the necessary resources and in-house expertise to ensure compliance, big tech companies would

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The tilted image shows the Cablefax Daily magazine cover for Monday, November 2, 2020. The cover features the headline "Deal Talk: RCN/News/Grande CEO Discusses \$6.1bn Strongarm Deal" and other articles like "Purposes, More and More" and "Matters". There are also promotional banners for "2020 Most Powerful Women Honorees" and "Save the Date: Dec 4 Most Powerful Women Magazine & Virtual Celebration Event".

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be unlikely to take seriously their responsibilities to comply. This would directly affect the effectiveness of the rules and compromise the achievement of their objectives,” the groups wrote. “In this case, the legislation would soon lose credibility in the eyes of Europe’s citizens. Moreover, ineffective enforcement would undermine the respect the EU as a whole has earned for being the first jurisdiction in the world to tackle the excess power of Big Tech.”

XPERI GOES GLOBAL WITH VEWD

Xperi is bolstering its European footprint with a \$109 million acquisition of **Vewd Software**. Launched in 2002, the company is an independent OTT software provider for smart TV makers, connected car and video-over-broadband operators. As part of the acquisition, Xperi will gain access to and be able to monetize an installed European footprint of approximately 15 million devices. It will also acquire 275 team members from Vewd’s main offices in Norway, Sweden, Taiwan and Poland. The Vewd management team will continue to lead the business and be integrated into Xperi’s management structure.

PAC-12 STARTS MEDIA RIGHTS TALKS

The Pac-12 Conference board met and authorized the start of negotiations for its next media rights agreements. This comes following Thursday’s news that UCLA and USC were leaving the conference for the Big 10. The Pac-12’s current media deal with **Fox** and **ESPN** expires in 2024. According to *Sports Business Journal*, the move prompted **Apple** to [re-enter media talks](#) with the Big 10, which renewed its deal with **Fox Sports** to carry over half of the conference’s games. The Big 10’s current media rights deal will expire in 2023, and many expect the new deal to eclipse \$1 billion.

CINEMAXGO GONE THIS MONTH

CinemaxGo, the TV Everywhere platform for **Warner Bros. Discovery’s Cinemax**, is shutting down on July 31. Customers will have to access content through traditional cable packages that carry Cinemax’s linear channels or on demand.

NBCU, W.K. KELLOGG FOUNDATION PARTNER

NBCUniversal News Group and the **W.K. Kellogg Foundation** are partnering to promote dialogue around racial equity issues and advance racial healing. The year-long initiative will show how racial healing is transforming the U.S. while using the News Group’s portfolio of outlets and journalists to promote stories regarding racial healing. Starting next month, **NBC News**, **MSNBC**, **CNBC** and **Noticias Telemundo** reporters will report on racial equity through the lens of racial healing as part of a 14-part digital series on [NBCNews.com](#). The News Group will put on an English and Spanish-language town hall on January 17, 2023—the National Day of Racial Healing.

AT THE COMMISSION

The **FCC’s** Wireline Competition Bureau is seeking comment on the interagency broadband coordination agreement struck between the Commission, **USDA** and **NTIA** in May. The agreement is designed to be updated periodically and the FCC is required to seek public comment on the effectiveness of the

agreement in facilitating efficient use of funding for broadband deployment; the availability of Tribal, state and local data tied to broadband deployment; and suggested modifications that would improve coordination. The comments will also inform a report the FCC must prepare for Congress on the effectiveness and potential improvements to the agreement. Comments are due Aug. 1 and reply comments must be in on or before Aug. 16.

LISTEN TO NEWSMAX ON TUNEIN

Newsmax is expanding access to its programming after partnering with live streaming audio service **TuneIn**. Listeners can access Newsmax TV and Radio On Demand podcasts within the TuneIn app, which has 75 million monthly users.

OPTIMUM OPENS TWO STORES

Altice USA’s Optimum opened two stores in Paramus and Totowa, New Jersey—the first of 10 stores set to open in the state. The stores will offer Optimum’s full line of products such as fiber internet, Optimum Mobile and Smart Wifi 6.

XFINITY MOVIE DEAL

Xfinity Rewards is launching a “Summer of Movies” series, which gives Xfinity Rewards members access to one downloadable movie on their X1 or Flex device at no added cost every week this summer. Movies will be available every Tuesday, beginning with “Independence Day” appropriately available last week.

SPECTRUM EXPANDS IN INDIANA

Spectrum launched its internet, mobile, TV and voice services to Vigo County, Indiana, as part of the company’s \$5 billion investment in unserved rural communities. Spectrum Internet starts at 300 Mbps and Spectrum Internet Ultra provides download speeds of up to 500 Mbps. Spectrum Internet Gig is also available with download speeds of 1 Gbps.

RATINGS

Spectrum News’ coverage of local primary elections in June averaged over 2.4 million daily viewing households across linear and digital platforms throughout its footprint, according to **Nielsen**. Spectrum News 1 in Charlotte saw a 16.4% month-over-month growth, and Columbus (12.5%) and Cleveland (12.1%) also saw improvements and had higher increases in viewership than local ABC, CBS, Fox and NBC stations. Spectrum News NY1’s primary election coverage viewership was more than 95% above the 30-day average, and coverage of the Supreme Court’s decision to overturn *Roe v. Wade* averaged 77% more viewership across its footprint. – “Stranger Things 4” achieved 301.28 million hours viewed on **Netflix**, helping it secure the top spot on the Most Popular English TV List. The series appeared in the Top 10 in 93 countries.

PROGRAMMING

ACC Network will have 15 dedicated days of programming highlighting each school’s memorable moments. Starting Tuesday with Boston College and ending July 19 with Wake Forest, each school’s programming will begin at 12am and one hour of primetime will be dedicated to highlighting women’s sports. – **HBO Max’s** “Ten Year Old Tom” was renewed for a second season.