

# Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## Guardrails: Industry Wants Digital Discrimination Safe Harbors

Broadband providers and industry stakeholders are watching the FCC's proceeding tied to digital redlining closely, and without further guidance from the Commission, many are nervous that they could be wrongfully accused of discriminating against minority and low-income communities.

"We do think that there should be some clarity for providers and some predictability as they build out networks because I think everybody agrees that not every difference is discrimination," NCTA SVP, Law and Regulatory Policy *Rick Chessen* said during a panel at the **Free State Foundation's** Annual Policy Conference in DC Tuesday. "There's a whole slew of things that can lead to differences, and I just think from our point of view... there should be some indication from the FCC so we don't have to go through the whole process of litigation and defenses to come up with things that everybody would agree shouldn't be considered discriminatory."

**Public Knowledge** President/CEO *Chris Lewis* identified a lack of studies at the FCC about the issue of digital discrimination. There are some spot studies, and in the ones examined by Public Knowledge, the neighborhoods that are most often left out are densely populated neighborhoods where there should be an economic case to reach them if only a provider chose to bring service to the area. The other scenario is that in those neighborhoods, a provider is providing a quality of service that has not been upgraded. Those communities, Lewis said, are

often low-income or composed largely of minorities.

"There are ways to help providers in meeting that need, but I don't think we need to be pointing the finger of racism at everyone," he added. "If it's a problem with the provider's model, let's adjust the way they think about models. If it's a problem with folks being low-income, that's why we have low-income subsidies."

**T-Mobile** VP, Strategic Alliances and External Affairs *Clint Odom* also called the fact that there are little to no studies or spot studies on discrimination in broadband potentially problematic. He noted that instituting safe harbors in how the Commission investigates digital discrimination and redlining is important if the agency wants to align with Congress's original intent.

"If a company can be hauled to the FCC to account for why it does not have broadband in a particular area, and if the absence of that service can be intimated or suggested or [if there's proof] of a discriminatory intent, this is a show that is going to be coming to a lot of this industry, and it is not a good precedent," Odom said. "I hope there are robust safe harbors and I hope that my company isn't accused of being a discriminatory company because we've not upgraded a particular site or a community as fast as some people might like."

The conference also featured appearances from Rep. *Bob Latta* (R-OH), **NTIA** Senior Spectrum Advisor *Scott Blake Harris* and FCC veterans. Republican **FTC** Commissioner *Christine Wilson* was scheduled to make her final public appearance at the event as well, but tested positive for COVID and was too unwell to appear via Zoom.

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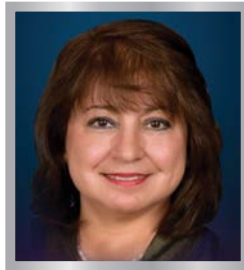
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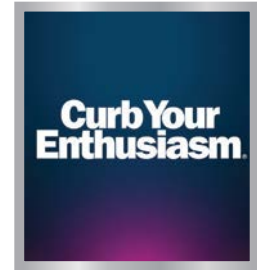
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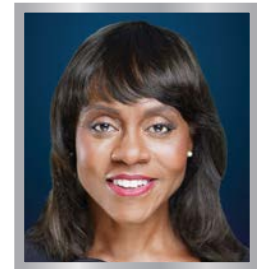
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## STARRY GAZING AT WHAT'S NEXT

With tight capital markets only getting worse, the stars just weren't aligned for **Starry**. When the fixed wireless upstart entered the market, it had a deficiency of about \$340 million to \$360 million to get to breakeven. The plan was to execute for a couple quarters and show that it's capable of meeting and exceeding targets. "Unfortunately, the situation has been getting bad to worse to worst in the capital markets, and we were just not able to, despite being very close a couple times on a different fronts, close a transaction. So now it's about trying to survive and figure out what that shape looks like for us," CEO *Chet Kanojia* said during an investor conference Tuesday. When it comes to what's next, a sale would be the top priority, but the company is keeping an open mind. One path forward could be for Starry to end up in the millimeter wave portfolios of **AT&T**, **Verizon** or **T-Mobile**. "If Starry were a part of something like that, given the access to resources, you would have a tremendous impact on the broadband market and that's evident from the take rates we see today," said Kanojia, who added that ILECs could be another logical fit for the company. Starry, a top bidder in the **FCC's** Rural Digital Opportunity Fund, has defaulted on RDOF bids, slashed its workforce and filed for Chapter 11 bankruptcy protection. Despite the hard times, Kanojia is a firm believer in Starry's potential. Last quarter, despite all the capital constraints, it did 53,000 apartment activations. That's on par with the 56,000 Fios internet adds Verizon reported last quarter. "We take good comfort in the fact that whoever ultimately ends up partnering with us—either if it's strategic or recap financial, whatever the situation may be—we'll get an asset that at current valuations will be 30X, 40X, 100X in returns at this point." Starry raised about \$150 million, but just couldn't cover the shortfall. And while it's halted expansion and cut costs, that's not going to get Starry to where it needs to be. "We're not at a stage where we can save our way to prosperity," said Kanojia. He didn't offer any info on how many quarters Starry has left in it to figure out a strategic solution, saying it changes based on cost cutting, support and other decisions. "We think we have enough time right now to see the options on the table through to a transaction potentially," said the CEO, noting Starry continues to drive penetration in the six markets it operates in. Cable has faced competition from fixed wireless, but has described it as temporary because the tech won't be able to match faster speeds. Kanojia believes speed concerns are overblown. "Yes, there is a certain cohort of customers that are chasing those high speeds, but really at the end of the day, it's not about the customer. The speed has nothing to do with the customer, it's purely a marketing gimmick to drive ARPU," he said.

## STANDARD GENERAL SUES FCC OVER TEGNA TRANSACTION

As expected, **Standard General** filed suit against the **FCC** in the D.C. Circuit as it attempts to close its multi-billion dollar acquisition of **TEGNA** before a May 22 deadline. It argues that the Media Bureau's hearing designation order is unconstitutional and its purpose is to deny the application. On Feb. 24, the FCC's Media Bureau designated a hearing before the Commission's Administrative Law Judge over concerns surrounding the potential for the deal to bring higher consumer prices and job cuts. Standard General told the federal appeals court that the hearing order is contrary to law because it raises ground beyond the FCC's statutory authority. "The Communications Act charges the Commission with evaluating whether proposed license transfers will 'serve' the 'public interest.' But that directive does not give the Commission its own 'broad license to promote the general public welfare'; instead Congress obligated the agency to pursue 'the purposes of the regulatory legislation,'" the appeal said. It also argued that the hearing designation order was arbitrary, capricious and contrary to law because its conclusions were supported exclusively by "evidence" that is categorically excluded by statute. "The challengers offered only speculation, magazine articles, irrelevant documents and bald allegations," Standard General said. The FCC's press office declined to comment and Commissioners *Brendan Carr* and *Nathan Simington* also refused to comment on during an appearance at the **Free State Foundation** Annual Policy Conference Tuesday. However, Simington chimed in on whether the Media Bureau sending transactions to an administrative law judge should scare those looking to pursue a merger in the years ahead. He noted that referrals to the ALJ happen all the time at the Commission. But should the practice prove to be something of a death note or a deal killer in the years to come, he believes that would signal the need for the agency to review its internal processes and consider other practices.

## ACP'S LONG-TERM STRUCTURE REMAINS A BIG QUESTION

There's bipartisan agreement on Capitol Hill that the Affordable Connectivity Program is a huge success and probably should receive more funding, but questions remain on what program structure is most sustainable long-term. Former **FCC** Commissioner *Michael O'Rielly* argued during a panel at the **Free State Foundation** Annual Policy Conference that there is some value in having Congress continuing to oversee a program after it is created. "It's where you get to fix some of the deficiencies, and there are some issues here," he said. "People are talking about eligibility, people are talking about

waste, fraud and abuse. Without this spotlight, programs go on at the Commission on autopilot and they don't get addressed." In a separate appearance, current Commissioner *Nathan Simington* countered that point by saying that one-time appropriations have their own drawbacks. "If everybody who is eligible for ACP signed up, then the appropriations would be gone in less than a year," he said. "I think the question of whether ACP should be reviewed ties with the question of who exactly we hope to reach now that we're somewhat out of the COVID crisis, what the expected source of funding should be... and I think all those are somewhat to be defined as you look at what the next phase of that program will be."

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## SPECTRUM BUSINESS CUSTOMERS CAN NOW GET ADVANCED WIFI

**Charter** is making its Advanced WiFi available to Spectrum Business customers in all of the company's 41-state footprint. The solution was already available to residential customers, but now small- and medium-sized businesses can receive various connectivity enhancements. Features include an advanced WiFi router that supports up to 200 devices simultaneously, enhanced customer control that lets businesses see who is connected to their network and improved security. Customers can also receive speeds of up to 1 Gbps with no data caps.

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## AD SPEND SLOWED IN 2H22, MIXED SIGNALS AHEAD

The rise of streamers will help the cross-platform national video ad market stabilize overall, but local TV may struggle this year following a record year in political ad spending. That's according to the global media investment and intelligence company **Magna**, which said OTT ad sales [grew 20%](#) to offset a 5% drop in linear ad sales. U.S. media owners' ad revenues grew 5.7% last year to eclipse \$315 billion overall, but ad sales were nearly flat YOY in 4Q22 at 0.8% growth. That's due to financial turbulence, but there are still positives such as continued GDP growth and receding inflation that gives some the hope of future stabilization. Magna spotlighted key verticals such as automotive, saying car sales had a rebound in ad spend in 4Q22. Looking ahead to 2023, Magna is expecting full-year ad revenues to grow 3.4% to \$326 billion.

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## RATINGS

Despite the fervor around March Madness, **Fox News** grabbed the top spot among P2+ for not only the month of March, but for 1Q23 as well. For March, it led prime with an average of 2.09 million viewers, followed by **TBS** (1.54 million), **MSNBC** (1.14 million) and **ESPN** (1.11 million). **HGTV** capped the prime top five with 910,000. Total day for the month saw Fox News lead with 1.32 million, with MSNBC and ESPN behind with 701,000 and 549,000, respectively. TBS had 535,000 and HGTV came fifth at 467,000. – Sunday's Season 4 premiere of "Succession" reeled in 2.3 mil-

lion viewers across **HBO Max** and its linear telecasts, according to **Nielsen**. Total viewing for the night was up 62% compared to the Season 3 debut—which had 1.4 million viewers—and increased 33% compared to the previous season's finale (1.7 million). When comparing total viewing to other Sunday night **HBO** premieres, *Succession* beat out the Season 2 beginning of "The White Lotus" by 51% and trailed "House of the Dragon," "The Last of Us" and "Euphoria." – Approximately 543,000 U.S. households tuned in to the first episode of Season 4 of **Netflix's** "Love is Blind" during the Live + two-day window. That's good for a 55% jump from the third season's debut, with the dropoff from this season's first episode to the second only being 12%. – **Showtime's** "Yellowjackets" also enjoyed a successful season premiere, garnering nearly 2 million viewers across platforms and solidifying the network's best Season 2 premiere in over 10 years. The episode was up 110% from the series premiere in November 2021 and 40% from the Season 1 finale. – **Hallmark Channel's** "Spring into Love" programming campaign kicked off Saturday, helping lift it to be the most-watched network of the weekend among W18+ on a Live+SD basis. The film "A Picture of Her" was the top entertainment cable program of the week among W18+ and P18+, and was No. 1 on Saturday among Households, total viewers and W25-54.

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## ON THE CIRCUIT

The **Broadband Communications Association of Pennsylvania** will host the first Pennsylvania Broadband Summit on April 26-27 in Lancaster. The event will have speakers and panelists from the industry touching on subjects such as policy updates from both D.C. and Harrisburg, overall advancements being made, what's ahead for 10G technology, federal funding for rural broadband deployment and opportunities for improvement. Of those attending are **Shentel** EVP/COO *Ed McKay*, who will be part of the "MSO Executive Panel," and **ACA Connects** President/CEO *Grant Spellmeyer* and **NCTA** VP/Lead Legislative Counsel *Alex Minard*. Both will be on the "D.C. Decoded" panel.

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## PEOPLE

**Paramount Global** named *Kristin Southey* as EVP, Investor Relations, replacing *Anthony DiClemente* who will stay with the company through mid-April during a transition period. Southey will report to CFO *Naveen Chopra* and head up the team that cultivates Paramount's relationships with the global investment community, while also playing a key role in the company's financial leadership team. – **Curiosity** picked *Tom Pope* to serve as its new VP, Advertising and Sponsorships, where he'll focus on growth opportunities for the company's factual entertainment brand. In his new role, Pope will lead all sales and marketing efforts for brand advertising and sponsorships, secure new deals for impactful campaigns and develop strong business relationships while strengthening current ones. Pope is a 20-year industry veteran, previously holding executive roles at **Discovery**, **Animal Planet** and **Sinclair's Circa**.