

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

On the Quad: Plenty of FCC Media Ownership Input as Deadline Looms

The clock's ticking on the **FCC's** order to complete its 2018 quadrennial review, though it's unclear if the agency will rise to the occasion. In September, the D.C. Court of Appeals [ordered](#) the FCC to complete the past due analysis of broadcast media ownership rules within 90 days. If it doesn't, the court said it must show why an **NAB** petition asking for the completion of the review should not be granted.

At a press conference after last week's open meeting, FCC Chair *Jessica Rosenworcel* said she circulated a proposed order several weeks ago to her fellow commissioners and is hopeful it will be voted on "shortly." **New Street Research** told clients it thinks it's possible, but not likely that the agency meets the deadline. In a humorous footnote to its research note, the firm addressed what would happen if the FCC misses the Dec. 27 target: "While the consequences of not meeting it are unclear, we can state with 100% confidence failure to do so will not result in anyone dying, going to jail, or paying a fine. So, the incentives to work through Christmas are not that great."

NAB filed the petition to force the Commission to complete the 2018 review after it announced earlier this year it was embarking on the 2022 review before the previous quad review was completed. The congressionally mandated review includes examinations of the Dual Network Rule, which prohibits combining two of the Top 4 rated broadcast networks in a market. **NCTA** and the **American Television Alliance** have

claimed broadcasters are exploiting a loophole in the rule by using multicast streams and low power TV (LPTV) stations to broadcast a second—or even a third, or fourth—top-four affiliation. The controversy over a so-called loophole has resulted in several filings and meetings at the FCC this month.

Last week, top lobbyists for **Fox Corp.**, **Paramount Global** and **The Walt Disney Company** visited the agency to express concern with extending the restriction to multicast or LPTV stations. "Such a change would ignore marketplace realities and the needs of viewers, given that in smaller markets there often are fewer than four separately owned full-power broadcast stations," said a filing describing the meeting. "This is by no means a hypothetical concern. Among the **ABC**, **CBS**, and **FOX** broadcast networks, each network has at least 20 affiliates on a multicast channel or LPTV station, and one of the networks has over 45 such affiliates. The overwhelming majority of these affiliates operate outside of the largest 100 markets in the United States. Millions of people across the United States are able to receive the programming of all four of the most popular broadcast networks because of these arrangements."

Late last month, NAB [took issue](#) with ATVA's list of 121 alleged instances of duopolies, triopolies or quadropolies formed by using multicast or LPTV stations, arguing that nine are lawfully formed duopolies involving only full power stations and dozens of others on the lists are in markets with fewer than four full power stations.

ATVA followed up in meetings with legal advisors for com-

Happy Holidays

FROM **Cablefax**

THE THREE PACKAGES OFFERED THIS YEAR INCLUDE:

1. Five awards entries to use for:
 - » The Faxies
 - » The Diversity List
 - » Most Powerful Women
2. Table of 10 at Most Powerful Women Awards Ceremony
3. Three 1-year Cablefax Daily Subscriptions

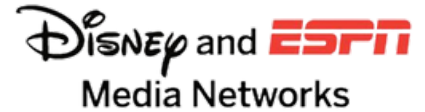
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missioners Rosenworcel, *Brendan Carr*, *Nathan Simington* and *Geoffrey Starks*. “By NAB’s calculations, broadcasters have used the multicast-and low-power loopholes in ‘only’ 109 of the 210 local markets, not the 121 markets we had specified. To the extent NAB is correct, we included the additional markets in error. Yet use of loopholes in even 109 markets is a serious problem,” ATVA said in an ex parte filing. “In any event, we invite broadcasters to create a more official and updated list for the record, as they have more ready access to the relevant information. Such a list would doubtless show that broadcasters have created additional duopolies, triopolies, and quadropolies in the past three years.”

NCTA’s math has 114 instances, across 92 markets, in which a broadcaster controls the programming of two or more top-four networks using an LPTV station or multicast stream. The cable association adds that in 17 of these markets, broadcasters have used the loopholes to operate three or even all four major network affiliated stations. It calls out **Gray TV** in particular, saying it accounts for 30% of the instances.

Gray’s also been to the FCC this month, saying that in small, low-revenue communities such as Parkersburg, West Virginia; Minot, North Dakota; and Laredo, Texas, a network-affiliated program stream will not generate enough cash flow to support a standalone station that produces local news. As such, it argues that the Commission should liberalize its ownership rules and create clear waiver standards that encourage the expansion of local news in small markets. “At the very least, any expansion of the local television multiple ownership rule should be limited to the Top 50 markets. New Top 4 combinations outside the Top 50 markets should be entitled to a presumptive waiver of the rule,” Gray said. “Setting a waiver standard for DMAs smaller than the Top 50 is consistent with both common sense and the Commission’s record in this proceeding.”

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COMCAST DATA BREACH IMPACTS NEARLY 36 MILLION SUBS

Comcast is notifying customers of a data breach that happened in October and involved customer information. On Oct. 10, **Citrix**, one of Comcast’s software providers, announced that a product used by Comcast and others contained a vulnerability. Citrix released a patch at that time to fix the vulnerability and issued additional mitigation guidance on Oct. 23, and Comcast implemented it all to ensure its systems were secure. However, it now knows that from Oct. 16-19, an unauthorized entity accessed internal systems. After notifying federal law enforcement and conducting an investigation, it determined that information was likely pulled from that system. On Dec. 6, Comcast determined that the information included usernames and hashed pass-

words. For some customers, other information including names, contact information, last four digits of social security numbers, dates of birth and or secret questions an answers were also obtained. Comcast notified the Maine Attorney General’s office of the incident, and its notification states that more than 35.8 million people were affected by the breach. “We promptly patched and mitigated the vulnerability. We are not aware of any customer data being leaked anywhere, nor of any attacks on our customers. In addition, we required our customers to reset their passwords and we strongly recommend that they enable two-factor or multi-factor authentication, as many Xfinity customers already do,” Comcast said in a statement. “We take the responsibility to protect our customers very seriously and have our cybersecurity team monitoring 24x7.”

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GOP WORRIES NTIA WILL ALLOW RATE REGULATION VIA BEAD

House Commerce Republicans are raising concerns that BEAD opens the door to rate regulation. In a letter dated Dec. 15 to **NTIA’s Alan Davidson**, committee chair *Cathy McMorris Rodgers* (R-WA) and 15 other committee Republicans wrote that the Infrastructure Act explicitly prohibits NTIA from regulating rates for broadband, but they’re concerned Davidson will ignore this based on his testimony at a Dec. 5 hearing. “You did not foreclose approval of state plans that regulated rates of broadband service. Indeed, when directly asked, ‘Will NTIA permit a state to rate regulate, yes or no,’ you did not provide a yes or no answer and instead stated that NTIA would give states flexibility on how to approach this issue. This ‘flexibility’ to pursue rate regulation is not only concerning, but is strictly prohibited,” the letter stated. The letter came after NTIA approved Louisiana’s initial BEAD proposal, which includes set rates for certain broadband plans. “Because there appears to be confusion about the definition of rate regulation, we define rate regulation as regulating the rate of broadband services in any way, including setting a rate, freezing rates, or placing a cap on rates,” the Republicans wrote. They want a response by Jan. 12 that confirms whether NTIA will approve state plans that include rate regulation and if it plans to approve these plans, they want an explanation on why.

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MEDIACOM TURNS WEST DES MOINES ONTO 10G

Mediacom has finished transitioning its network in West Des Moines, Iowa, to the 10G platform, the company announced Tuesday. With that work behind it, the provider is looking to begin transitioning other Iowa communities to 10G starting with the cities of Bertram, Cedar Rapids, Des Moines, Fairfax,

Hiawatha and Marion. Portions of unincorporated Linn County will also receive the upgrade.

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WOW! KICKS OFF DAA PILOT PROGRAM

WOW! is taking a technological leap, announcing the launch of a Distributed Access Architecture pilot program in its Panama City market. The provider used DAA nodes to expand the capabilities of its hybrid coaxial fiber network in the area and deliver multi-gig speeds to customers. This test is ultimately being done to see how WOW! can expand its HFC network, build a DOCSIS 4.0 framework and open the door for the delivery of symmetrical multi-gig services. Customers participating in the pilot will benefit from 2 Gbps download speeds and 200 Mbps upload speeds. The pilot will expand in the coming months to new and existing subscribers in additional markets.

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CINCINNATI BELL DISCONTINUES ALTA FIBER AD CLAIMS

Cincinnati Bell has voluntarily discontinued certain advertising claims regarding **altafiber** that compared cable to fiber following a **National Advertising Division** challenge. The claims, which were challenged by **Charter**, asserted fiber as a superior product over cable as well as Cincinnati Bell's supremacy over Charter in the areas of reliability, speed and other performance-related metrics. Cincinnati Bell argued NAD didn't have jurisdiction to consider the challenge since the advertising was targeted to consumers in a single market. However, since the advertising appeared on Cincinnati Bell/altafiber's website and on a video on **YouTube**, NAD determined it was able to move forward with a review. Additionally, the issue concerns Charter's service, which is available nationally. Cincinnati Bell agreed to discontinue all of the challenged claims permanently and will also discontinue the challenged implied claims in the context in which they appeared. Cincinnati Bell said in a statement it "disagrees with NAD's conclusion that it has jurisdiction over this matter but appreciates NAD's recognition that Cincinnati Bell has permanently discontinued the challenged claims."

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THANKSGIVING GIVES TV A BOOST

TV viewing levels for November were at their highest since January thanks to a viewership bump during Thanksgiving week, **Nielsen's** monthly The Gauge report revealed. Overall TV usage for the month was up 5.7% compared to October, but during the week of Thanksgiving, that number increased to more than 14%. Streaming took the largest chunk of viewers with 36.1%. Cable (28.3%) and broadcast (24.9) combined for 53.2% of the pie and 10.7% fell under the "Other" category. **YouTube** (excluding **YouTube TV**) led services with 9% of streaming viewing. **Netflix** followed with 7.4% and "other streaming" with 5.1%, while **Prime Video** came in at 3.4% and

Hulu SVOD at 2.7%. **Tubi** had a platform-best of 1.4% of TV usage for the month, while **Peacock** had the largest usage increase at 23% thanks to football coverage and the Macy's Thanksgiving Day Parade.

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RATINGS

Fox News is looking to end the year strong, having swept the primetime and total-day ratings among cable networks for another week. It did have some competition for the primetime crown. Fox News led with 1.75 million viewers P2+. **ESPN** was close behind with 1.68 million thanks to the start of bowl season and continued college basketball coverage. **NFL Network** crept into third with 1.45 million after a Saturday slate of games, while **Hallmark Channel** continued riding the holiday wave to 1.24 million. **MSNBC** capped the prime top five with 1.11 million. Fox News' total-day mark was 1.16 million. MSNBC (748,000), NFL Network (701,000) and ESPN (683,000) followed behind, with Hallmark closing things out at 664,000. – "Barbie" made its debut on **Max** last week, and it scored 1.2 million U.S. households watched during the L+3D window according to **Samba TV**. That's compared to 205,000 U.S. households that watched Barbie on a VOD platform during the L+3D window.

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ESPN PICKS LAPLACA SUCCESSOR

ESPN named its successor to **Chris LaPlaca**. The network tapped **Josh Krulewitz** as its SVP, Communications, taking control of ESPN's communications department effective Dec. 31. The 32-year ESPN vet will report to Chairman **Jimmy Pitaro** and **Walt Disney** CCO/Senior Executive VP **Kristina Schake**. Krulewitz first joined the network in 1990 as an intern before becoming a full-time employee and publicist two years later, eventually rising through the ranks to reach VP, Communications in 2006. He's had his hand in a litany of areas for the company, including all sports at the high school, college and profession levels, league and event agreements, network and program launches, business communications, special campaigns, issue management, government and investor relations and internal communications. LaPlaca [announced his decision to retire](#) in October after 43 years, making him the longest-tenured behind-the-scenes employee at ESPN.

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DOING GOOD

Charter's Spectrum Community Investment Loan Fund is partnering with Grow America to commit \$1 million to go toward providing loans for small businesses in Stamford, Connecticut. The Fund is also pledging a grant to Grow America's Community Impact Loan Fund, which gives capital to promising small businesses at any stage of growth. With the commitment, the Spectrum Community Investment Loan Fund has given over \$29 million in loan capital, capacity grant donations and in-kind contributions.