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WHAT THE INDUSTRY READS FIRST

Throwing Caution: ISPs Express BEAD Pains at ACA Summit

ACA Connects' annual Summit kicked off Wednesday with several warning flags on the field over the \$42.5 billion BEAD program.

"By my count, you have something like maybe over 12 states recently that have said they aren't going to have enough money to cover all unserved and underserved locations. That's a big miss. There's still time to course correct, but why is it missing?" asked **FCC** commissioner *Brendan Carr*, pointing the blame at the "forced rate regulation" and heavy-handed labor preferences.

His concerns were echoed on a panel of ISPs. Historically, **Metronet** hasn't participated in many subsidized builds, but given how much costs have risen, investors are challenging it to reconsider, said CEO *Dave Heimbach*. State funding and American Rescue Plan Act money generally has had fewer strings attached, making it a bit more appealing, he said. "Our concerns with the ways BEAD has rolled out at the state level, there are many states where it's essentially implied rate regulation. That's very problematic from our perspective," said Heimbach. "There are prevailing wage concerns that would make what is already an uneconomic build without subsidy even less economic in terms of earning a return on invested capital. And the letter credit issue has been problematic."

When it comes to subsidized builds, **GCI** VP, Legal & Regulatory and Deputy General Counsel **Dave Hymas** gave the

example of its ambitious AU-Aleutians project that includes more than 800 miles of undersea fiber. GCI started applying for funds in 2018 and began deploying in 2022. "Between those two poles, we've had a few issues—COVID, inflation, supply chain issues. And so the projections and the costs that we use to apply for funds and to go to our private sources of revenue changed. By 2022 and 2023, those numbers looked very different than they did in 2018," Hymas said. "As we're putting together BEAD projections for projects, we're keeping that back in the back of our mind and we're looking at other projects that are being proposed and we're thinking, 'I wonder if Company X realizes four or five years now, their applications are going to look very different than they look right now.'"

ImOn Communications has only completed one assisted build, but it's taken a look at BEAD funding. "We worked with **Cartesian** to really analyze Iowa and what's expected to come and we've really come to the conclusion that unless we're in close proximity of some of the areas available for grants, the economics even with the grants don't work," said CEO *Patrice Carroll*.

ACAC President/CEO *Grant Spellmeyer* said the attitude toward BEAD varies greatly among members, though he's heard from "more than a handful" with concerns about where it's headed. "Depending upon the geography, they serve 50 states with 50 different versions of BEAD that's coming out. I've talked to members that are very, very excited. I've talked to members that aren't going to participate at all and everyone in

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between,” he said during a briefing with reporters. “We’re not giving them advice, per se, about whether to proceed or not because I think that’s a complex equation that varies greatly.”

With Louisiana the only state so far to have its Volume II approved by NTIA, Spellmeyer said BEAD is clearly falling a little bit behind. “I have to say it’s pretty difficult to figure out how you get shovels in the ground before the election. If you had asked me a year ago, I think I would have predicted by September there would be shovels in the ground,” he said, adding that he thinks some of the lag is due to questions over the income affordability requirement, particularly in light of the Affordable Connectivity Program’s pending sunset.

NTIA Administrator Alan Davidson, who appeared at the Summit later in the day, said he’s pleased with the progress made. “A little over two years [ago], there were plenty of states that didn’t even have private broadband offices. And by the way, I’ll just say NTIA was a lot smaller. Since I joined a little over two years ago, we are almost 40% bigger. So, we’re like a startup in government,” he said.

Davidson acknowledged some of the pain points providers have with BEAD, noting the letters of credit requirement is something the agency tweaked after feedback from ACAC members and others. “We’re doing all we can to try to streamline this program within [the required] context and to make sure that we’re hearing from all of you about where the issues of concern are, where are the friction points,” he said.

That opened the door for Armstrong Utilities President Jeff Ross to remark on the challenges his company faced on permitting and pole attachments for its public-private partnership connecting the Southern Tier of New York. Is there anything NTIA can to help there once BEAD money is distributed?

Davidson said the agency now has a team dedicated to permitting and is looking at how it can streamline the environmental permitting pieces that it has control over. “Stay tuned for more. We’ve got some things in the works to streamline. Some of these programs that are going to work on federal lands...,” he said. “Another part of that is the states. We’ve required states in their plans to show us how they’re going to mitigate and deal with this surge of permitting requirements. But we need to keep that pressure up and you folks out in the field can help us with reminders to states and communities that if they want these builds quickly, which they all do, we’re going to need help getting through the permitting process.”

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NCTC’S BROADBAND TV PLAY

NCTC President/CEO Lou Borrelli teased during an ACA Connects Summit appearance that the co-op is working on an OTT skinny-bundle like product for its members who are migrating

to broadband only or broadband first. He described it as 35-40 channels along with an array of services, including some FAST channels. No other details, but said to expect more specifics by the time The Independent Show rolls around in August. “It hasn’t been branded, and I keep getting accused of calling it ‘Broadband TV’ too often,” he said. “We’re still in the linear business even though it’s declining. But we have a number of members who are going very hard at broadband first or broadband only. So we’re providing content and other options for those members. It’s a way for us to keep continuing with the membership, because for us, the worst thing we can do is let people walk out the door.” It sounds like a vMVPD-like product, which wouldn’t be subject to the same retransmission consent rules as a cable operator. NCTC plans to have what it is calling a three-year conversation with content owners and broadcasters. “I do think talking to our partners in a way where they can appreciate the fact that we want to continue to participate, and we want to be supportive, but we can’t have the restrictions you have. You can’t ask us to pay two or three times for the same content when you’re migrating it off of a linear base onto a direct-to-consumer base. And oh, by the way, you’re selling it at our cost to the consumer, which is less than what we paid,” he said.

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SUMMIT REACTS TO SPORTS JV, BLACKOUT REFUNDS

ACA Connects President/CEO Grant Spellmeyer was one of the first to speak out against the planned streaming JV between ESPN, Fox and Warner Bros. Discovery, and he’s not backing down. “The government would never allow those three entities to merge and they’re trying to walk their way around it in a clever exercise that I’m not convinced does anything to address escalating prices in the marketplace,” he told reporters Monday. Spellmeyer said he has members who’d love to sell a bundle at a similar price, but so far the phone’s not ringing. NCTC chief Lou Borrelli questioned how the math works for the venture. “When they come out and say, ‘we think we’re going to sell this bundle for \$40-ish, maybe \$35, the entry price, and according to published reports, Disney keeps \$20 and Fox gets \$8...and they’re not selling just to the nevers, sorry Mr. Murdoch, you’re selling it to everybody,’” he said. “It’s my way of saying we’re still subsidizing. Look, I know all of those guys. I like most of them. We’ll sort it out.” ACAC also has a wary eye on the FCC proposal to require MVPDs to provide refunds in the case of programming blackouts. Spellmeyer described the difficulty, questioning how an operator refunds a customer for a lost channel when they’re not allowed to tell anyone how much they pay for a channel. “We’re setting up

this system where we call the customer and say ‘here comes your 11 cents.’ And then we come back five weeks later and say all right, **Tennis Channel** [or whichever channel] is back on and we’re charging you 22 cents when the contract says you can’t tell them that either. I don’t know how that’s going to work,” he said.

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CHARTER CHANGING MESSAGING AROUND FIXED WIRELESS

Charter has in many ways led the pack when it comes to broadband customer growth and innovative programming deals, but CEO *Chris Winfrey* said during an investor conference appearance that an area where the operator could be doing better is in its marketing and communication to customers about fixed wireless and its limitations. “It’s cell phone internet, and when they’re articulating that to customers, they’re articulating it at an incrementally low-price point. But my reaction to that is the only way that you get that incrementally low price point is because you’re overpaying on a mobile line,” he said. “So I think we need to pivot our conversation with customers to educate them... the best wireless companies in the world have the most wires, and we have the most wires” When it comes to competing with fiber overbuilders, he admitted that they’ve done a better job in marketing symmetrical speeds over the last two years. But Charter continues to believe its differentiating factor against both the fixed wireless providers and fiber competitors is its converged product offering. Like many, Winfrey has a lot of questions around what the sports streaming jv from **Warner Bros. Discovery, Fox** and **Disney** will look like or if it will release. However, what he saw in the press release was three programmers deciding that genre-based programming is the way to go moving forward, and Winfrey agrees with that from his seat as a distributor. “The distributors have been saying that for a couple of decades now that we’d like to have the ability to do genre-based packaging,” he said. “So if you step back, it’s an admission for the programmers that that is the right way to go together with ala carte, which was also something you thought you would never see, and I fully expect that we’ll have the ability to distribute content in a similar fashion.” As for those rumors that Charter was examining a bid for **Altice USA**, Winfrey said the operator has enough to do on its own. “The bar for M&A has always been high, and in this market climate, it’s probably higher,” he said.

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FCC CONSIDERING AMNESTY PERIOD FOR RDOF, CAF II WINNERS

The **FCC’s Wireline Competition Bureau** is seeking comment on a [letter](#) from 69 ISPs, trade associations, regulators, school districts, unions and more asking for an amnesty period for RDOF and CAF II awardees. That amnesty period would allow those who cannot or do not intent to build their networks a short window to relinquish all or part of their winning areas without being fully penalized as detailed by Commission rules. The reason for the ask? Any

areas that have been awarded are not eligible for BEAD funding, and there are a large number of census blocks where RDOF and CAF II awardees that have not begun building their networks. The explanations for the delays vary with some blaming skyrocketing costs that have made the builds impossible without more funding. Many of the awardees who cannot or will not deploy their networks through the other programs are located in states with the greatest connectivity needs, including Missouri and Mississippi. “Regardless of the reason RDOF and CAF II awardees cannot or choose not to fulfill their obligations, the households they were intended to serve are at risk of being left without broadband internet access entirely because their service areas will also be ineligible for BEAD funding,” the letter said. Comments are due March 26 and reply comments are expected by April 9.

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NCTA SPEAKS OUT AHEAD OF STATE OF THE UNION

President Biden will deliver the State of the Union Thursday, and **NCTA** expects the nation’s broadband networks to be heavily featured in his speech. But in a [blog post](#), the association said the Administration, if it is serious about maximizing BEAD funding, must acknowledge and address the several warnings operators have already made regarding potential roadblocks. It asked the Administration to look at the **FCC’s** push towards net neutrality as a distraction that would discourage private investment, and to lighten the regulatory barriers and burdens that stand in the way of both innovation and investment. “That goes not only for new rules, but also the extraneous conditions that Administration has adopted or is insisting that states adopt when crafting eligibility rules or preferences for broadband builds,” NCTA said in the post. As for recommendations, the association said government officials need to encourage participation and competition among experienced providers, remove obstacles that slow deployment like those related to pole attachments and ensure grants are being directed to unserved communities first and foremost. “We commend the Administration’s commitment to expanding connectivity across the country—and will continue to do what it has always done: build out its networks to reach as many Americans as possible,” NCTA said. “Together, if we can avoid politically-induced detours and keep our focus, we can make ‘Internet for All’ a reality.”

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ACAC SUMMIT NOTEBOOK

As the clock winds down on the Affordable Connectivity Program, some have suggested maybe there’s a role the Universal Service Fund could play. **FCC** Commissioner *Anna Gomez* says not to count on that. “I find it very hard to imagine the Universal Service Fund can actually absorb a program of this size,” she said, remarking that ACP is larger than USF. She also warned that if ACP expires and then is re-funded, it could cause trust issues with consumers. “I don’t know that we’ll get a lot of those consumers back,” she said. More than 200 **ACAC** mem-

bers participated in ACP, with the organization pledging to lobby for re-funding the program during its Hill Day Thursday. The lobbying visits are occurring the same day as the State of the Union. President *Biden's* address has caused a few logistical change-ups, with road closures around the Capitol, but we're assured the lobbying will go on. – **Cable One's** *Mike Bowker* is set to retire after 25 years with the company. His retirement is set to go in effect April 30. As such, he has stepped down as Vice Chairman of ACA Connects. **Schurz Communications** President/CEO *John Reardon* was elected to fill his term. *John Walburn*, VP, Operations at Cable One, was also appointed to the ACA Connects Board. Bowker moved from COO to Chief Growth Officer late last year, with Cable One announcing earlier this week that *Ken Johnson* was elevated to the COO post.

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COMCAST LIFTS SPEEDS AHEAD OF ACP END

Comcast announced a number of speed boosts across its lower tiers, and the company said it was doing so to serve customers even better as the Affordable Connectivity Program prepares to come to a close in May. New and existing customers on the Connect plan will see speeds increase from 75 Mbps to 150 Mbps. Connect More speeds will rise from 200 Mbps to 300 Mbps, and Fast will move from 400 Mbps to 500 Mbps. Xfinity Prepaid speeds are getting the largest boost, rising from 50 Mbps to 200 Mbps. Xfinity's ACP customers are automatically eligible to enroll in Internet Essentials for as low as \$9.95/month. During an investor conference appearance Wednesday, Comcast CFO *Jason Armstrong* compared the approach to ACP customers as the program ends as being similar to how the provider manages promotional roll-offs. "We have waves of customers every single quarter rolling off promotions that you have to figure out how do you tier up, is there disruption in the base. How do you land that customer on higher-rate plans or migrate them to something else," he said. "So this is not new. We're wired to do this... that's not me saying it won't be disruptive... but at the same time, it allows us to play offense as well."

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A+E NETWORKS FLAUNTS CONTENT PIPELINE AT UPFRONT

A+E Networks has quite the roster of content waiting in the wings for 2024, boasting its multi-platform approach and list of partnerships with the likes of former President *Barack Obama*, *Robin Roberts* and *Reese Witherspoon*. "No matter what disruption we face, no matter what new platforms come and go, creativity—creativity remains a universal truth," A+E President/Chairman *Paul Bucciari* said at the company's virtual upfront Wednesday. "Simply put, our focus is to create things that inspire and captivate, delight and inform. And we do this for every platform." A+E announced a new research initiative called "InterAction," which creates a trio of metrics—attention, recall and search engagement—to show how effective A+E's advertising is. On the programming front, it started

with **History Channel** unveiling a new 20-part WWII docuseries hosted and narrated by *Tom Hanks*. History Channel also inked a partnership with *Barack and Michelle Obama's* Higher Ground Audio to help create an eight-part podcast exploring America's Reconstruction Era, as well as a partnership with *Derek Jeter's* CAP 2 Productions to make "History's Greatest Warriors" and "The Icons that Built America." "The UnXplored with *Danny Trejo*," an eight-part series on things the human eye can't easily find, is also in the works, and the network announced an upcoming 18-month initiative "HISTORY250" to highlight the upcoming 250th anniversary of the U.S. **Lifetime** is expanding its collaboration with the "Good Morning America" host *Roberts*, greenlighting a biopic about singer *Gloria Gaynor*. It'll also have "Dance Moms: The Reunion" coming May 1 in addition to an untitled movie about *Larry Ray* and his cult at Sarah Lawrence College. **A&E** greenlit a pair of series: "Secrets of the Hells Angels" and "Houses of Horror: Secrets of College Greek Life." Lastly, **Home.Made.Nation** signed a new development deal with *Witherspoon's* Hello Sunshine to create lifestyle content. The first series will be "Country House Hunters," which will be joined by "Property Virgins" and "48 Hours to Buy."

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DISH, PHILO FORM AD PARTNERSHIP

DISH Media and **Philo** entered an exclusive partnership that'll allow DISH to offer advertisers access to Philo's inventory. It's the first partnership that extends beyond **DISH TV** and **Sling TV** inventory through DISH Media buys. Advertisers will now get a larger addressable audience along with reporting backed by third-party measurement and attribution partners. Philo comes with over 70 premium channels that span genres like sitcoms, classics, reality shows and content for kids. Philo's audience overlaps with DISH Media's by less than 3%.

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SLING TV ON THE GAME

Sling TV is launching its first-ever free games experience, dubbing the gaming platform "Arcade." It allows both Sling TV and **Sling Freestream** users to play games while simultaneously watching live or recorded TV content, however, it's initially available to those with an Amazon Fire TV or Android TV. Sling partnered with Play.Works to have a starting set of 10 games, ranging from "Doodle Jump" and "Tetris" to "Wheel of Fortune" and Solitaire Clash."

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SUPER TUESDAY RATINGS

Early **Nielsen** data gives the Super Tuesday ratings crown to **Fox News**. The network led primetime coverage with 3.24 million viewers P2+ and 455,000 A25-54, beating **MSNBC's** 1.83 million P2+ and 234,000 A25-54 and **CNN's** 875,000 P2+ and 243,000 A25-54. Fox News' coverage peaked in the 10-11pm hour when a majority of primary results came in, recording 3.51 million viewers P2+ and 593,000 A25-54. That hour saw Fox News lead all cable nets, **ABC**, **CBS** and **NBC**.

Think about that for a minute...

A Bad Omen

Commentary by Steve Effros

I'm going to try to keep this as apolitical as possible. What I'm concerned about is the overall implication for national and international telecommunications law and policy. This is not about individual people or events. But they are clearly creating a toxic atmosphere around the issue of how we deal with the future development of broadband, "social media," and particularly the use of "artificial intelligence."

I've long lamented the increasing hyperventilation surrounding AI. There's no question that computer technology and capabilities are moving at an unprecedented speed, however the underlying reality is that the computing capabilities have been around for a long time. They are nothing new. The difference now is the size and source of the data being used to service the computing algorithms, and the speed with which that can be done resulting in novel new forms of output.

That output includes, of course, what now is characterized as "intelligent" responses to questions in the form of "chat" like "answers," and now even images cobbled together based on text descriptions. So we have "ChatGPT" and "Gemini" among others spitting out all sorts of material. Some of it's good, some of it's bad, much of it is impressive but there are instances of "hallucinations" when the algorithm doesn't find sufficient information to "answer," or wildly misdirected visuals based on different databases, incomplete descriptions, or efforts to reflect a wider, more accurate depiction of the world than we are used to.

That's what I was talking about in last week's column about all the noise being created by the infant steps of Google's Gemini serving up historically unlikely or simply incorrect images. I called them understandable errors that will undoubtedly continue to happen while these systems continue to be tested, to learn, and to be corrected. Since then the same errors were replicated in other AI models from other sources, like Meta. No surprise. The databases are now huge and the instructions are still not well phrased. You can get any strange result you want just by the way you ask for the resulting answer or picture.

What was truly disturbing to me, however, was that I got an email from one reader who was very upset by my characterization of obvious and correctable errors, calling them Google's "...blatant, deliberate, anti-white racist renderings of people and people groups." He supported that by citing statements by a Google Senior Manager saying things like "...do your part in recognizing bias" and suggested that I should write about "...the efforts of big tech companies to change history and the dangers of that becoming a reality."

Now I can obviously take issue with just about all of that. There is a major difference between "changing" history and making sure it is accurate and complete in the first place. Something I don't think most of us have experienced. But that's not the point here. It's that type of thinking and discord that is starting to unfortunately permeate the admittedly major telecommunications policy questions we are facing. We have to deal with these issues. What do we do about huge, worldwide databases, social media posts polluted by paid political automated "bots," and yes, sometimes intentionally added bias as opposed to efforts to neutralize inherent database bias.

We have to consider who and how to establish "guardrails," or at least recommend privately monitored standards to qualify as a "reliable" source. We have to teach users that these new services are neither perfect nor protectable from those who would use them to misinform. All of those things are true, and difficult. But to start

the discussion with an assumption that big technology companies are populated by "... anti-white racists..." is a sure way to move these debates into a disastrous miasma of law and policy. Don't go there.



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(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry. His views do not necessarily reflect the views of Cablefax.)

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