

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Grab The Bill: NAB Jokes in Replies to FCC's Early Termination Fee Docket

NAB's reply comments in the FCC's docket on a proposal to adopt rules blocking cable operators and DBS service providers from imposing early termination fees and billing cycle fees on subscribers had a tone that's hard to describe as anything other than sarcastic.

Filed earlier this week, the association's comments said it had read with interest the pay TV industry's filings contending that early termination fees and billing cycle fees were beneficial to subscribers. NAB called the pay TV industry "somewhat of a leading light in seeking more regulation to benefit consumers" in recent years, noting that the shying away from the FCC's proposal to ban those fees might have been something of a surprise to those that know it for that reputation.

"In light of pay TV's consumer-first advocacy, NAB thought it would be helpful to the Commission's consideration of the proposed rule to list all the consumer groups and state and local government filers that agreed with the pay TV industry in initial comments that ETFs are really awesome for consumers and that additional regulation in this area would only harm them," NAB said, noting that list would be attached to the filing as Attachment A. One look at Attachment A revealed the list that was empty.

The U.S. Chamber of Commerce submitted less snarky reply comments, saying it has serious concerns that the FCC does not have the legal authority to issue the NPRM. It called the Commission's actions an attempt to rate regulate the commu-

nications industry and said the agency would be in violation of the Cable Act for imposing price controls. "Also, the Chamber believes the NPRM's underlying policy justification to prohibit these pricing practices are deeply flawed," it continued.

Pay TV providers used their reply comments to try to find other reforms that would require MVPDs to be more transparent with customers. DISH was one that continued to stand by what it called the consumer benefits of ETFs, but it noted it wouldn't be appropriate to call the practice a perfect one when terms of ETF plans are not disclosed and voluntary. DISH believes the Commission should institute written and oral disclosure obligations that would work to protect consumers while promoting competition.

"Such measures will allow consumers to continue to benefit from the savings that ETF plans enable, while at the same time ensuring that they are able to make informed decisions about their video service," DISH said.

If the Commission does decide to prohibit ETFs, Verizon said that it should only do so on a prospective basis and not invalidate provisions in current contracts. That's because there are plenty of customers who value the discounts they receive by agreeing to plans with ETFs.

"In fact, all of our customers who are subscribed to contracts with ETFs are in a renewal period, meaning they have agreed on more than one occasion to sign up for the discounted rate, which has an ETF with a guarantee of no price increases for two years," the provider said.

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NEXSTAR FIGHTING FCC RETRANS FINE

Nexstar is fighting back against the **FCC's** proposed forfeiture of \$720,000 for its handling of retransmission consent negotiations with **Hawaiian Telecom**. In a filing Friday, the broadcaster argued that the Media Bureau erred in finding it violated the good faith negotiation requirement and that the proposed forfeiture exceeds the Bureau's delegated authority and is both irrational and punitive. It wants to see the fine canceled or at least substantially reduced. The Bureau [issued notice](#) of the proposed forfeiture on Feb. 7, determining that Nexstar had breached its duty to negotiate in good faith by proposing renewal terms that would have blocked Hawaiian Telecom from filing complaints with the Commission relating to the parties' negotiation and final renewal agreement. Nexstar told the FCC that since Hawaiian Telecom had already lodged a good faith complaint in the midst of negotiations, its proposal to settle that dispute as part of a renewal agreement was "eminently reasonable." Hawaiian Telecom's initial FCC complaint accused Nexstar of failing to negotiate in good faith because it refused to extend the parties' 2020 agreement until the parties reached either a new agreement or an impasse. The Bureau rejected that part of HT's complaint. "Nexstar would not have presented the proposal at all had Hawaiian Telecom not previously filed a good faith negotiation complaint. And HT refused the provision, which was not ultimately included in the final agreement," the broadcaster said. Nexstar called the proposed \$720,000 forfeiture "astounding," arguing that the Bureau arrived at the total through the illogical treatment of a "discrete contract proposal" as an act that continued from the date it was first proposed until the date a contract was executed. "That confounds common sense, conflicts with precedent, and perversely incents future parties to delay negotiations in the interest of elevating the potential liability to their counter-parties," Nexstar said.

BIDEN BOASTS INFRASTRUCTURE, TARGETS JUNK FEES IN SOTU

President *Biden* made sure to touch on the expansion of affordable high-speed internet and cable junk fees during his State of the Union speech Thursday night. While he didn't dive too much into the issues, he made sure to mention the broadband benefits stemming from the Bipartisan Infrastructure Law. "Thanks to our Bipartisan Infrastructure Law, 46,000 new projects have been announced across your communities—modernizing our roads and bridges, ports and airports, and public transit systems. Removing poisonous lead pipes so every child can drink clean water without risk of getting brain damage. Providing affordable high speed internet for

every American no matter where you live. Urban, suburban, and rural communities—in red states and blue," Biden said, later noting his administration's investment in tribal communities. He stopped short of directly mentioning the **FCC's** Affordable Connectivity Program or the ACP Extension Act to give it more funding before its imminent expiration. However, he later turned his attention to junk fees and the issue of all-in pricing. The FCC is [set to vote](#) on final rules that would require cable and satellite TV providers to specify "all-in" pricing for video services clearly and prominently in marketing materials and subscribers' bills. That vote is scheduled for March 14. "I'm also getting rid of junk fees those hidden fees added at the end of your bills without your knowledge. My administration just announced we're cutting credit card late fees from \$32 to just \$8," Biden said. "And I'm not stopping there. My Administration has proposed rules to make cable, travel, utilities and online ticket sellers tell you the total price upfront so there are no surprises. It matters." If the rules are approved, providers will no longer be able to describe any programming costs as taxes, fees or surcharges. – A lot of eyes were on President *Biden* during the State of the Union address, and **Fox News** was the most-watched TV network during the speech. Fox News had 5.64 million viewers P2+ from 9:15-10:45pm, according to early data from **Nielsen**. That not only topped all cable nets, but the broadcast nets as well (**ABC** was the closest with 5.02 million viewers). **MSNBC** wasn't too far behind with its 4.2 million viewers. **CNN** checked in with 2.51 million.

MASN, COMCAST STRIKE DEAL

It's "Play ball!" for D.C.-area baseball fans. **Comcast** and **MASN** struck an agreement to continue carrying the RSN through Xfinity's Ultimate TV tier. "We're pleased to have reached an agreement with MASN to continue carrying its networks and making them available on our Ultimate TV level of service before MLB's Opening Day," Comcast said in a statement. "We appreciate MASN working with us to find a solution to maintain MASN and MASN2 on our platform that also provides our customers with a choice." The change will go into effect Tuesday. MASN was previously available to Comcast/Xfinity users through the lower-cost Popular TV plan. However, Comcast is offering a six-month promotion for Popular subscribers who wish to get MASN and **MASN2** via Ultimate. Those subs can get Ultimate for free for three months, then \$10/month for the next three before resuming normal pricing. Those who stay on the Popular tier will get a reduction in the RSN fee on their monthly bill.

VMVPD SUBS KEEP CLIMBING

Leichtman Research Group revealed the largest pay TV providers in the U.S. lost about 5.04 million net video subscribers in 2023, up from the pro forma net loss of 4.59 million sustained in 2022. Top cable providers had a net loss of about 3.83 million video subs during 2023. Other traditional pay TV services came in at a loss of 3.11 million, while vMVPDs added 1.9 million (up from the 1.67 million added in 2022). **Comcast** had the biggest loss out of cable companies at 2.04 million. **Charter** lost 1.03 million. **Altice USA, Cable One** and **Breezeline** followed with losses of 274,000, 39,200 and 29,482, respectively. **DirectTV** had the most losses in the “other traditional services” category with 1.8 million. **DISH TV** lost about 945,000 subs, **Verizon FiOS** 289,000 and **Frontier** 72,000. **YouTube TV** highlighted a successful year for vMVPDs as it added 1.9 million subs, bringing its total to 7.9 million. **Hulu + Live TV** gained 100,000 subs in 2023, which was beat by **Fubo’s** mark of 173,000 additions. **Sling TV** was the only listed vMVPD to lose subs with 279,000. Pay TV providers now combine for 71.3 million subscribers, led by the top seven cable companies accounting for 34.1 million, other traditional pay TV services having 21 million and vMVPDs contributing 16.2 million.

MEDIA+TECH INNOVATION Team “Parabellum Group,” a student team from the University of Denver, is the grand prize winner of the 17th annual **Media+Tech Innovation Challenge** held Friday. This year’s challenge had student teams tackle a challenge presented by **Comcast’s** customer experience team: to revolutionize chatbots and interactive voice responses to create more conversational AI-powered experiences. **Lis McLaughlin** and **Benjamin Shorb** are the students from the grand prize winning team, and they’ll take home \$4,500 in total for their success. Judges for the competition were **CableLabs** CTO **Mark Bridges**, Comcast SVP, Customer Experience Strategy **Brooke Pruter** and **Zayo** Chief Data Officer **David Sedlock**. \$1,500 was awarded to the other two team finalists, also from the University of Denver, and all three teams will have preferred opportunities for a local paid industry internship.

CABLEFAX DASHBOARD

Social Media Hits

Mark Nielsen @MarkNielsenCT
Today marks the 10th anniversary of my first day as Chief Legal Officer at Frontier Communications.

My Top Ten Lessons Learned over those 10 Years...

10. Don't get annoyed by all the email complaints intended for Frontier Airlines;
9. A technology company should probably not have a buffalo as its corporate mascot;
8. Avoid using 70s and 80s cultural references – Blues Brothers, The Rockford Files, etc. – most of your colleagues won't get them;
7. If you want to be heard on Zoom calls, you need to go off Mute;
6. FCC chairs come and go, but the Net Neutrality debate is eternal;
5. When someone tells you your headquarters might move to Dallas, believe them;
4. When your company hires a British CEO, start using words like "cheeky," "keen," and "whilst,"
3. If you want to look like a telecom insider, subscribe to "Outside Plant" magazine and leave a copy on your desk;
2. Fiber is just better; and
1. Hang in there through the tough times. I am proud to be part of the great American turnaround story coming into focus at Frontier.

Kathleen O'Brien Ham @kobham
Loving having lunch with friends and former colleagues in retirement! Had lunch today with Steve Sharkey. We worked together to get the spectrum T-Mobile needed to become the 5G powerhouse it is today!



April Glick Pulito @aprilglick
we have the Nickelodeon Super Bowl where is the Nickelodeon SOTU

8:26 PM · Mar 7, 2024 · 275.3K Views

Research

(Source: Dell’Oro Group)

- The network security market in 2023 decelerated to a single-digit growth rate, largely influenced by a decline in the fortunes of hardware-based solutions.
- The SaaS and virtual network security segments surged by 26% to \$9.6 billion.
- A pronounced shift in market dynamics saw North America and EMEA experiencing subdued single-digit revenue growth in 2023, largely due to hardware digestion and broader economic uncertainties.

Up Ahead

- MARCH 12:** [Free State Foundation Conference](#); D.C.
- APRIL 3-4:** [Mid-America Cable Show](#); Dallas
- APRIL 10:** [T. Howard Foundation Diversity Awards Dinner](#); NYC
- APRIL 10-11:** [Pennsylvania Broadband Summit](#); Lancaster, PA
- APRIL 13-17:** [NAB Show](#); Las Vegas

Quotable

“[The WWE]’s right in that sweet spot of sports entertainment for us and what we call our sports shoulder programming, which is around the drama of sports and telling the story behind the sport. And we’ve done that from everything from Formula One and then NASCAR to ‘Full Swing’ and we’ve had certain events. We just had Netflix Slam, which was kind of we think an vulnerable event for us this last weekend. We had Netflix Cup before that in golf. We’ve got a lot more coming. We’ve got ‘Sprint,’ which is around the 100-meter dash around the Olympics. I’m excited for that one this year. We’ve got La Liga coming, which is our first, I think, of this kind of sports entertainment, sport storytelling coming out of Spain later this year.” – Netflix CFO Spencer Neumann at the Morgan Stanley TMT Conference Speaking on the company’s approach to sports