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WHAT THE INDUSTRY READS FIRST

Support Team: Chamber of Commerce Battles FCC In Title II Suit

Another group has joined the fight against the FCC's motion to have a consolidated legal challenge of its order reclassifying broadband as a Title II service moved out of the Sixth Circuit to the D.C. Circuit. The **U.S. Chamber of Commerce** filed an amicus brief Monday not only criticizing the FCC, but all federal agencies for using transfer motions as a way to move their cases into regulatory arenas where they have better track records.

The Chamber of Commerce argued transfer fights like these only harm those that are challenging potentially unlawful agency action as it forces them to commit additional time and resources to litigating threshold venue issues that are collateral to the merits of those claims. It also called the FCC's transfer motion particularly inappropriate given the Sixth Circuit was selected randomly by the **U.S. Judicial Panel on Multidistrict Litigation** through the multi-circuit lottery process.

"Granting the motion would undermine the judicial lottery system, reintroducing through the back door of transfer motions the forum shopping that Congress sought to eliminate when it established the current system of random selection in 1988. And granting the motion would have few if any countervailing benefits, because the Sixth Circuit is just as competent as the D.C. Circuit to adjudicate both regulatory challenges generally and FCC cases specifically," it said.

Chamber of Commerce argued that agency motions to

transfer venue in major regulatory challenges to the D.C. Circuit are only becoming more frequent across the board as federal agencies become disgruntled with having to litigate in the home turf of their regulated entities. But the multi-circuit lottery process was built with issues like Title II in mind. If an agency establishes rules that affect everyone in the country, it should be prepared to defend those rules in any forum across the nation.

"A rule governing internet access has effects throughout the country, in every circuit, every state, and indeed in most households. The judicial lottery process is especially appropriate where, as here, a case involves challenges to a rule with near-uniform effect nationwide," Chamber of Commerce said. "Were it otherwise, agencies could defy the principle that they—like any defendant—should be answerable for unlawful conduct in the jurisdiction where that conduct harms plaintiffs."

Commerce also fights back against any assertions that the D.C. Circuit should have the case because of its previous decisions. Only three of the 11 currently active D.C. Circuit judges participated in four major cases cited by the FCC. Additionally, the questions at the center of this case, including how the major-questions doctrine applies to net neutrality provisions, are very different from the essential issues duked out previously.

In other docket news, the group of joint petitioners that includes **ACA Connects**, **USTelecom**, **NCTA**, **CTIA** and a number of state associations filed a joint reply in support of

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their motion for a stay of the Title II order on Friday, pushing back against the Commission's principal objections for a stay. The group objects to the Commission's characterization of the Title II order as "not major" and not causing significant harm to ISPs.

"Whether the broadband industry should be regulated like a public utility has been a political hot potato for a decade, a telltale sign of a major question. And as explained in petitioners' detailed declarations—which the Commission mostly ignores—Title II regulation imposes costs on the broadband industry that are in a class of their own," the group said.

It also fought back against the FCC's rationale that the Sixth Circuit should follow the example set by the D.C. Circuit in 2015 and deny the stay. It asserts that the one-paragraph denial ultimately holds little persuasive value as it contained no reasoning as to why another court should follow its example. Beyond that, the petitioners believe they have stronger evidence to support a stay than ever before. That's in part because rather than following a Chevron framework like the D.C. Circuit did, the Sixth Circuit will be looking at the major-questions doctrine. "Whereas the D.C. Circuit's (erroneous) finding of statutory ambiguity once doomed any challenge, now it would doom the order," the petitioners said. "On harms, what the Commission argued was speculative in 2015 is now anything but: ISPs experienced life under Title II and the costs were significant and singular. And on the public interest, the Commission offers only a single inapposite example of supposedly harmful ISP behavior since 2015."

PARAMOUNT CO-CEOS LOOK TO THE FUTURE AT TOWN HALL

Paramount Global is trying to move beyond its merger talks with **Skydance**, but co-CEOs *George Cheeks*, *Brian Robbins* and *Chris McCarthy* acknowledged the noise around it during a town hall Tuesday. Reports of the conversation describe it as a frank one where the trio warned of layoffs as the programmer works to eliminate duplicated positions and boost profits. The company has also hired bankers to assess the sales of certain assets, and the proceeds from those would be used to inject new life into Paramount's balance sheet.

ROGERS ROLLS OUT DISNEY+ TO TV CUSTOMERS

Rogers Communications is giving Rogers TV subscribers the ad-supported edition of **Disney+** at no additional charge. The move comes just over two weeks after Rogers signed deals with **NBCUniversal** and **Warner Bros. Discovery** to launch

Bravo in September and WBD's portfolio of English-language U.S. lifestyle and factual brands—**HGTV**, **Food Network** and more—in January. Disney+'s ad tier in Canada runs for \$7.99/month.

BIG EAST NEARS NEW DEAL

The next college conference to get a new media rights deal is the **Big East**, with *Sports Business Journal* [reporting](#) it is set to sign a six-year agreement with **Fox**, **NBC** and **TNT**. It'll begin with the 2025-26 season after the expiration of Fox and CBS' current deal with the Big East. Fox will remain the primary network in the new deal, and SBJ's sources indicate the priority for the selection of games has already been decided with the three new partners. Financial terms are still being ironed out, but the current Fox-CBS deal reels in an average annual value of around \$41.67 million.

DISNEY REMAINS AT TOP OF MEDIA DISTRIBUTOR GAUGE

The second **Nielsen** Media Distributor Gauge was released Tuesday, and **Disney** kept its spot as the top media company with 11.4% of total TV usage in May. **YouTube** followed with 9.7% while **NBCUniversal** and **Paramount** were close behind with 9% and 8.8%, respectively. The biggest jump from April to May came with **Fox**, which improved from 6.1% of total TV viewing to 6.4%. That was aided by a nearly 5% monthly viewing improvement from **Tubi** and a 1.6% bump from **Fox News**. **The Roku Channel** led FAST platforms with 1.5%, good for 10th overall on the list.

BOOST MOBILE CELEBRATES DOWNLINK, UPLINK MILESTONES

Boost Mobile launched simultaneous four-carrier downlink and two-carrier uplink aggregation on its network. That opens the door for faster speeds for its customers with compatible devices, with peak speeds in recent tests reaching up to 1 Gbps.

CARRIAGE

MyBundle and **Outdoor Sportsman Group** struck an agreement to carry OSG's SVOD **MyOutdoorTV**. MyOutdoorTV comes at \$9.99/month a la carte and will be available to MyBundle's broadband partner network for potential bundling with internet service tiers. MyOutdoorTV will also be available in a bundle with **Tastemade+** for \$10.99/month. The deal includes billing integration for MOTV in the MyBundle Streaming Marketplace.

FIBER FRENZY

Comcast reached the next step in its \$8 million project in Citrus County, Florida, launching Xfinity and Comcast Business services in the areas of Inverness, Hernando, Floral City and Beverly Hills. Residents can get up to 1.2 Gbps while businesses can get up to 100 Gbps. – Approximately 1,600 homes and businesses in Winchester, New Hampshire, can now get **Fidium Fiber**, and hundreds more are still to come in Center Harbor and Pittsburg. Fidium's footprint in New Hampshire now spans more than 240,000 addresses. – **Metronet** will soon launch in Plymouth, Minnesota, thanks to a \$30 million investment from the company. Construction will begin this summer and the first set of customers are expected to be connected by the fall.

RATINGS

Fox News made it three consecutive weeks as the top cable network in primetime and total day the week of June 17-23. It took the primetime crown after averaging 2.03 million viewers P2+. **ESPN** followed with 1.08 million, with **MSNBC** (956,000), **HGTV** (749,000) and **Hallmark Channel** (660,000) filling out the top five. In total day, Fox News recorded 1.25 million viewers. MSNBC and ESPN were behind with 672,000 and 540, respectively. HGTV took fourth at 400,000 and **CNN** fifth at 385,000. – Spectrum News wrapped up June with 1.7 million daily viewing households across linear and digital platforms. That beat CBS, Fox, NBC, CNN, Fox News and MSNBC for the month across markets where Spectrum News has distribution. – **ION** once again broke its record for most-watched **WNBA** telecast. Friday's Fever vs Dream game averaged 1.18 million viewers, beating the previous 1.02 million record set June 7 with the Fever vs Mystics. The game peaked at 1.38 million viewers.

AT THE COMMISSION

Verizon Wireless reached a settlement with the **FCC's** Enforcement Bureau Tuesday, paying a \$1.05 million penalty to resolve an investigation into whether it violated rules by failing to deliver 911 calls during a December 2022 outage in six states. States impacted included Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee. The outage lasted for one hour and forty-four minutes and prevented hundreds of 911 calls from being completed. Verizon experienced a similar outage in October 2022 and took action to prevent future issues, but some problems recurred to cause the December outage. As part of the settlement, Verizon has committed to implementing a robust compliance plan, including performing 911 risk assessments and establishing enhanced processes for implementing security policy updates.

DOING GOOD

DirectTV grabbed another presenting sponsorship, this time with the 2024 **Big Ten Network** 10K. The race will happen at Soldier Field in Chicago on July 13 and run alongside the event's 5K. Both races will support Ronald McDonald House Charities of Chicagoland and Northwest Indiana and Special Olympics Chicago, the official charities of the event. – **Cable One's** Charitable Giving Fund dished out \$125,000 in grants to 26 local nonprofits within its footprint. It's the first part of the fund's commitment to awarding \$250,000 in grants to nonprofits per year, encompassing food banks, animal shelters, senior and child advocacy programs and community beautification projects. This year, Cable One added STEM and STEAM programs and homeless resources. Nonprofits can apply for this year's fall grants from Oct. 1-31.

PROGRAMMING

Hallmark Channel is joining forces with the Kansas City Chiefs in a new original movie "Holiday Touchdown: A Chiefs Love Story." Production will begin next month and film entirely in Kansas City, Missouri, with the premiere set to be a part of the annual Countdown to Christmas event. – Wimbledon is getting ready to begin, and **Tennis Channel** will have coverage from start to finish Monday-July 14. It'll have around 65 unique hours of coverage for this year's tournament, including six-hour and four-hour match segments, interviews, news/analysis and feature reporting. From Monday-July 8, original coverage will begin at 5pm and go for six hours. With encore replays included, Tennis Channel will have over 184 hours of Wimbledon-focused coverage. – **Fox Nation** is getting ready to release a four-part historical docuseries about George Washington "GEORGE: Rise of a Revolutionary." Actor *Kelsey Grammer* will host and executive producer, and it'll debut July 1 with all episodes. – **Spectrum News NY1** will have a pride-themed special "Proud Legacy: A NY1 Special." It'll air Wednesday at 8pm and look at the history of pride through longstanding organizations as well as NYC's annual Pride March. – **Fox News'** "Gutfeld!" will air its 11pm show from Milwaukee during the Republican National Convention (July 15-18). *Greg Gutfeld*, *Kat Timpf* and three guests will be joined by a live audience.

PEOPLE

Tom Fochetta is joining **DISH's** advertising and sales division **DISH Media** as SVP. He'll oversee the media sales organization and strategy while also working with the executive team to enhance media sales innovation and efficiencies, bring new solutions to market and expand the team's capabilities and market reach. Fochetta arrives from **Samsung Ads** where he was SVP, North American Sales and Operations.