

# Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## Docket Drama: Title II, Low-Income Broadband Updates From the Courts

The debate around the FCC's Title II order continues in the Sixth Circuit. **TechFreedom** and the **Washington Legal Foundation** submitted a joint brief in support of the group of industry petitioners that would like to see the most recent attempt to implement net neutrality regulation overturned.

The groups argued the Title II order would allow the FCC to inspect, critique and issue punishment for nearly anything broadband providers do, and that could lead to de facto rate regulation, the stifling of innovation and more.

"Such thorough—but vague and unpredictable—oversight will likely add up to a many-billion-dollar impact, in lost investment, altered practices, changed prices, and more, on the broadband industry," the brief said.

The groups argued the new Title II order would empower the FCC to essentially remold the broadband industry to its liking, triggering a huge transformation not only of communications firms, but other sectors that rely on them.

"The short of it is that the FCC wants to investigate and punish ISPs under a standard that grants the FCC virtually boundless discretion. 'We know it when we see it,' will be the unofficial slogan," the brief said. "The Order mentions various practices—e.g., data caps—that may or may not violate the general conduct standard, depending on how the spirit moves the FCC on a given day."

Conversation around the Title II order also made an appear-

## New Beyond the Bandwidth Column p4

ance in another docket this week as **ACA Connects**, **New York State Telecommunications Association**, **CTIA**, **NTCA-The Rural Broadband Association** and **USTelecom** filed a petition for writ of certiorari with the Supreme Court in connection to the New York Affordable Broadband Act. The groups asked the Supreme Court to review a decision made by the Second Circuit to allow the state to require ISPs to offer high-speed broadband to qualifying households for no more than \$15/month for 25 Mbps download speeds. They brought up the likelihood that the Title II order will not stand up to the major questions doctrine, and broadband is likely to remain an interstate information service regulated under Title I. Those services are protected from rate regulation.

"Although New York has agreed not to enforce its rate-regulation law while the Court resolves this petition, New York continues to assert that it has the right to do what the FCC cannot. This case thus presents the question whether broadband services will remain protected from common-carrier treatment and rate regulation by individual States: Whether the Communications Act preempts New York's broadband rate-regulation law," the petition said.

Staying in the Empire State, the **New York State Public Service Commission** announced a settlement agreement with **Charter** that requires the provider to offer broadband service to low-income consumers in the National Free School Lunch Program or that receive Supplemental Security Income ben-



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Cablefax recognizes the 2024 Most Powerful Women for outstanding qualities including influence and leadership within the cable and broadband industry, as well as dedication to empowering other professionals to grow and thrive. Join us in honoring these women who break boundaries and set new standards.

efits for \$15/month. The settlement is tied to Charter's 2016 merger with Time Warner Cable which contained a low-income broadband condition requiring Charter to offer a program with speeds of at least 30 Mbps/4 Mbps for \$15/month. In April, the Department of Public Service's Office of Investigations and Enforcement issued a Notice of Apparent Violation to Charter alleging it had violated the merger order by raising the price of its low-income program. The provider argued back that the condition had expired before it raised the price of the plan. The terms of the settlement will require Charter to re-establish the program at \$15/month with download speeds of 50 Mbps and keep it running for four years. For years two through four of the program, Charter will not be allowed to raise the price by more than the rate of inflation measured by the **Bureau of Labor Statistics'** Consumer Price Index. At the conclusion of the four-year term, the low-income broadband condition of the merger order will be considered satisfied.

"Charter is a leader in delivering life-changing high-speed internet service to low-income families, having helped millions of low-income households and seniors get and stay connected to the internet. We offer a variety of affordable high-speed internet packages to meet our customers' connectivity and budget needs and customers can save hundreds—if not thousands—of dollars a year by switching to Spectrum Mobile," Charter said in a statement. "Our prices and speeds are competitive and affordable, regardless of whether a customer lives in an urban, suburban or rural community—all with no modem fees, no annual contracts and no data caps."

## COX ASKS SUPREME COURT TO REVIEW SONY DECISION

Also taking to the Supreme Court is **Cox Communications**, which filed a writ of certiorari Thursday asking the court to review a copyright infringement suit raised by record labels in 2018 over the ISP's failure to take measures to punish broadband subscribers that used their internet to pirate music or share pirated content. Cox was found responsible in 2019 for its users' actions and was told to pay \$1 billion in damages. In February, the Fourth Circuit upheld the jury's finding of willful contributory infringement, but threw out the \$1 billion verdict. Now, Cox wants the Supreme Court to examine the questions around secondary liability and willfulness. In the filing, Cox said less than 1% of subscribers used its service to send infringing music files, and the ISP's anti-infringement measures got 95% of those users to stop. It was still found liable for infringement committed through 57,000 internet connections because the music companies had previously sent Cox automated notices alleging those connections were used to infringe. The only way Cox could have addressed those notices

was by terminating service to those users, and that would have meant terminating the connections of not just households, but also hospitals, universities and even regional ISPs, it said. The case has huge implications for other ISPs that could come under fire for the conduct of their subscribers. Just last month, a group of record labels filed a [complaint](#) against **Verizon** in the Southern District of New York for the pirating of music by broadband subscribers. They're requesting a trial by jury and have claimed they're entitled to statutory damages up to \$150,000 for each infringed work. "Under a lower court ruling, Cox and other ISPs may be forced to police the online activity of users and even terminate internet service based on unverified accusations of unlawfully downloading music," Cox Communications spokesperson *Todd Smith* said in a statement. "Cox knows how critical reliable broadband services are for the communities we serve. Our petition to the Supreme Court aims to protect users' privacy and avoid unintended consequences that will harm innocent and non-infringing consumers."

## TRAIL BLAZERS DITCH RSN

Another professional franchise is ditching their local RSN. The **NBA's** Portland Trail Blazers announced their games won't air on **ROOT Sports Northwest** this season, cutting short the initial agreement that was supposed to finish after the 2024-25 campaign. "Trail Blazers basketball will no longer air on ROOT Sports, but we thank ROOT Sports for years of great partnership. An exciting announcement on the future television home of Blazers basketball will be made soon," the team said in a statement. Though the Blazers' next move is to be determined, there's been a recent trend of major sports franchises signing agreements with various local stations to offer games OTA. The [Phoenix Suns](#) and [Utah Jazz](#) are two NBA teams who have already scrapped their RSNs in favor of OTA deals. In some cases, such as the [Stanley Cup champs Florida Panthers](#), teams are also rolling out direct-to-consumer products.

## WICT WOMEN OF THE YEAR REVEALED

This year's Women of the Year and Women to Watch Awards were revealed by **The WICT Network** on Thursday. Split across programmers, operators and technology companies, **Liberty Global** SVP/Chief People Officer *Amy Blair* is the Woman of the Year – Operator. *Johnita Due*, EVP, Integrity and Inclusion at **CNN Worldwide**, earned the award for programmers, and **ATX Networks** Board Director *Sandy Howe* took home the Woman of the Year – Technology recognition. The Women to Watch, which recognizes leaders who show achievement and

progression in their professional accomplishments, includes **Charter** Head of Strategic Operations, Sales and Marketing *Julie Unruh* for operators. **AMC Networks** EVP, Linear and Streaming Products *Courtney Thomasma* is the Woman to Watch – Programmer, while **Amazon Web Services** Global Director, Solutions Architecture for Media & Entertainment, Games and Sports *Steph Lone* won the technology category. All honorees will be showcased at the Touchstones Luncheon that’s scheduled for Oct. 21 in New York during The WICT Network’s Leadership Conference.

### HALLMARK+ SETS LAUNCH DATE

The previously announced **Hallmark+** streaming service set its release date for Sept. 10. It’ll launch with an original series “The Chicken Sisters,” which is based on the New York Times bestselling book of the same name, as well as an unscripted show “Celebrations with Lacey Chabert.” Starting Sept. 12, episodes from both programs will be released on Thursdays. Other programs to debut alongside the launch include installments of “The Jane Mysteries” and “Love on the Danube,” which each will have more episodes released on Sept. 19 and 26. Hallmark+ also will offer subscribers access to Hallmark VIP Movie Pass, which showcases behind-the-scenes and tidbits from popular Hallmark movies. Hallmark+ will be available for \$7.99/month or \$79.99/year.

### MORE INSIGHTS COMING TO ESPN BROADCASTS

**ESPN** is looking to bolster its broadcasts and content with more data, and it’s teaming up with **Genius Sports** in a long-term deal that’ll expand real-time insights across college sports, the **NBA** and **WNBA**. ESPN will have more team and player stats for its college sports coverage, including 65,000 NCAA games per year with basketball, football, ice hockey, volleyball and soccer. Genius Sports will work with the NBA on player-tracking data insights in addition to allowing the WNBA to utilize its portfolio of sports properties that use Genius Sports’ data. For ESPN, it’ll have access to insight tools used by NBA and WNBA teams.

### CARRIAGE

**Pluto TV** rolled out 16 of **Fox’s** local news station channels to its lineup, with another one joining later this month. The local stations span large markets including Atlanta, Austin, Chicago, Dallas-Ft. Worth, Detroit, Houston Los Angeles, Minneapolis-St. Paul, New York, Orlando, Philadelphia, Phoenix, San Francisco, Seattle, Tampa Bay and D.C. Fox 6 in Milwaukee will join the Pluto TV lineup later this month.

### PROGRAMMING

**Food Network** struck a new and exclusive multi-year deal with chef *Alex Guarnaschelli*. The agreement includes multiple projects across linear and digital platforms as well as the chance for Guarnaschelli to develop and produce new concepts.

### PEOPLE

Former **YouTube** VP, Product Management and **Google** mainstay *Adam Smith* is taking the role of Chief Product & Technology Officer for **Disney Entertainment** and **ESPN**. Smith will manage a global product and technology group that spans Disney’s entertainment and sports media businesses, having him responsible for driving technology strategy, development, deployment and innovation across Disney’s streaming platforms and networks, consumer digital touchpoints, proprietary advertising technology and more. He’ll officially join Sept. 3 and report to Disney Entertainment co-chairman *Alan Bergman* and *Dana Walden* and ESPN Chairman *Jimmy Pitaro*. At his most recent stint with YouTube, he oversaw Music and Premium in addition to Subscriptions and Commerce since 2016.

### EDITOR’S NOTE

Be sure to see the debut of our new “Beyond the Bandwidth” column on Page 4 of today’s **Cablefax Daily**. On the third Thursday of each month, we’ll be highlighting the diverse and innovative ways companies are putting their networks to work. Today’s column focuses on **altafiber**, which opened a 5G Testing Lab in February to educate businesses about private wireless technologies.

BASIC CABLE P2+ PRIME RANKINGS* (08/05/24-08/11/24)		
MON-SUN	MC	MC
	US	US AA
	AA%	(000)
<b>FNC</b>	<b>0.748</b>	<b>2358</b>
<b>MSNBC</b>	<b>0.441</b>	<b>1389</b>
<b>USA</b>	<b>0.307</b>	<b>967</b>
<b>CNN</b>	<b>0.219</b>	<b>692</b>
<b>HALL</b>	<b>0.189</b>	<b>595</b>
<b>HGTV</b>	<b>0.165</b>	<b>520</b>
<b>INSP</b>	<b>0.165</b>	<b>519</b>
<b>HIST</b>	<b>0.149</b>	<b>471</b>
<b>ESPN</b>	<b>0.144</b>	<b>453</b>
<b>TBSC</b>	<b>0.140</b>	<b>440</b>
<b>SYFY</b>	<b>0.139</b>	<b>437</b>
<b>TLC</b>	<b>0.134</b>	<b>423</b>
<b>DISC</b>	<b>0.132</b>	<b>416</b>
<b>FOOD</b>	<b>0.120</b>	<b>378</b>
<b>ID</b>	<b>0.114</b>	<b>359</b>
<b>TVLAND</b>	<b>0.110</b>	<b>348</b>
<b>REELZ</b>	<b>0.096</b>	<b>302</b>
<b>NWSMX</b>	<b>0.091</b>	<b>288</b>
<b>GSN</b>	<b>0.090</b>	<b>284</b>
<b>HALLMYS</b>	<b>0.090</b>	<b>283</b>
<b>A&amp;E</b>	<b>0.090</b>	<b>283</b>
<b>NFL</b>	<b>0.088</b>	<b>278</b>
<b>WETV</b>	<b>0.085</b>	<b>269</b>
<b>LIFE</b>	<b>0.085</b>	<b>267</b>
<b>BRAVO</b>	<b>0.077</b>	<b>241</b>
<b>TNT</b>	<b>0.076</b>	<b>241</b>
<b>AMC</b>	<b>0.075</b>	<b>236</b>
<b>OXY</b>	<b>0.071</b>	<b>223</b>
<b>ADSM</b>	<b>0.068</b>	<b>216</b>
<b>FX</b>	<b>0.067</b>	<b>213</b>
<b>BET</b>	<b>0.064</b>	<b>202</b>
<b>SNDNCE</b>	<b>0.063</b>	<b>199</b>
<b>NAN</b>	<b>0.060</b>	<b>189</b>
<b>MLB</b>	<b>0.057</b>	<b>180</b>
<b>TRAVEL</b>	<b>0.056</b>	<b>176</b>
<b>LMN</b>	<b>0.054</b>	<b>169</b>
<b>COM</b>	<b>0.053</b>	<b>166</b>
<b>FETV</b>	<b>0.050</b>	<b>156</b>
<b>NATGEO</b>	<b>0.048</b>	<b>150</b>
<b>PRMNT</b>	<b>0.044</b>	<b>139</b>
<b>IFC</b>	<b>0.043</b>	<b>136</b>
<b>TWC</b>	<b>0.042</b>	<b>131</b>
<b>APL</b>	<b>0.041</b>	<b>130</b>
<b>HLN</b>	<b>0.041</b>	<b>129</b>
<b>DSNY</b>	<b>0.040</b>	<b>127</b>
<b>FRFM</b>	<b>0.039</b>	<b>124</b>
<b>FXX</b>	<b>0.039</b>	<b>124</b>

\*P2+ L+SD rankers are based on national Nielsen numbers, not coverage.



## BEYOND THE BANDWIDTH

### altafiber's 5G Testing Lab Opens Doors for Businesses

“What are you guys up to? What are you going to do?”

Those questions of curiosity were sparked by *Scott Rash*, President/CEO of the Wright State University Foundation, when he learned that Cincinnati-based **altafiber** won the Primary Access License for Greene County, Ohio, during the **FCC**'s CBRS auction in 2021. Initially, altafiber was going to use the license for a fixed wireless offering for internet in rural areas, but the company instead opted to focus on fiber in that area of business. *John Scola*, Director of altafiber's Mobility Program, still had a vision of what the company could accomplish with that spectrum.



“I asked the business, ‘Well, can I use those frequencies and those assets and start marketing that toward our business customers, large business customers,’” Scola recounted to **CFX**. “They said yes, but one of the things I needed was a lab. I wanted to go test all of this.”

Scola saw Dayton as an ideal place to build the lab as altafiber was expanding toward that area with its fiber program. It was then that Rash grew curious about altafiber's plans, in which he also indicated that the WSU Foundation had available real estate for altafiber to use.

Three years later, the 5G Testing Lab is nestled across the street from WSU in Fairborn, Ohio. The building allows businesses to get hands-on education about indoor and outdoor 4G and 5G technology used for private networks spanning large buildings and open areas. The initial verticals altafiber is targeting include health care, logistics and manufacturing.

“altafiber has taken a leap of faith knowing where the puck is going to be, but I'm fascinated by what these people walk away with and how they react to it,” Rash said.

The facility itself has a handful of rooms that enable companies to bring in their own equipment and analyze specific use cases. For example, a security camera company can come to the testing lab and see how a 5G private network would work with its camera solutions. Or a county could want WiFi in a park and already has a self-support tower on the property, so altafiber could show how it'd use WiFi access points to expand connectivity across a property.

Though it's still in its early stages of adoption, Scola sees more companies going down the wireless route. It's an avalanche waiting to happen, he said, but so far, the companies and leaders he's talked to have been more than eager to invest in the technology and take a chance.

“All I've done for three years is educate people on what this is,” Scola said. “So now the buying decisions are starting to happen. We're actually selling equipment, we're selling networks and they've been in production for eight or nine months, and [customers] are going, ‘Yes, this all proved out.’ All we need is one in each vertical and then everybody will follow, right?”

The 5G Testing Lab also serves as an opportunity for students at WSU. The WSU Foundation works with altafiber and Nokia—which is also a partner with the lab—to offer 5G certification courses to students so they can get real working experience.

But that's just part of the long-term vision Scola and Rash share. “If we could, at some point time, turn this whole facility and this whole area into a technology hub of driving business and economic activity, I think [Rash] and I would say the vision that we talked about three years ago is starting to come to fruition,” Scola said. – *Noah Ziegler*

