

# Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

## In Harmony: More ISPs Support Cox in Copyright Infringement Battle

ISPs are coming out of the woodwork to support **Cox Communications** in its Supreme Court petition asking for a review of a lower court's judgment in a 2018 copyright infringement suit raised by record labels that claimed Cox failed to punish subscribers who used their internet connections to pirate music.

Cox was found responsible in 2019 for the actions of those subscribers and it was ruled the company would pay \$1 billion in damages. In February, the Fourth Circuit threw out the \$1 billion judgment, but maintained the original jury's verdict of willful contributory infringement.

On Tuesday, **Altice USA**, **Frontier Communications**, **Lumen Technologies** and **Verizon** jointly submitted an amicus curiae brief backing Cox and laying out the widespread consequences of the case. The filing laid out just how impactful the decision in this case will be to all ISPs with many larger players defending themselves from similar suits. Beyond Cox, Frontier is battling a \$400 million lawsuit, Altice USA is fighting a case with a wide range of potential statutory damages and Verizon is also reportedly facing up to \$2.6 billion in potential liability because of a failure to shut down internet service to accounts allegedly used for copyright infringement.

The brief on multiple occasions referenced *Twitter, Inc. v. Taamneh*, a 2023 case in which the social media company was being sued for allegedly failing to prevent ISIS from using

the platform for recruiting, fundraising, organizing and more. The Supreme Court issued a unanimous opinion explaining that internet platforms could not be held secondarily liable because of broad opinions that they could have taken more aggressive action.

"And in words that could have been written for this case, the Court explained that it 'would run roughshod over the typical limits on tort liability and take aiding and abetting far beyond its essential culpability moorings' to hold a 'communication provider' liable 'merely for knowing that... wrongdoers were using its services and failing to stop them,'" the brief said.

Also submitting an amicus brief was Boston College Law School's *Alfred C. Yen*, a professor of law who has published numerous works on copyright law, the internet, sports law and more. He fought back against the record companies' argument that Cox was liable for infringement because it had been sent automated notices alleging those connections were being used to pirate content illegally. Beyond that, he stood by the ISPs' arguments that addressing those notices would have meant terminating services not only to households, but also to hospitals, universities and more.

"Notification that a specific customer commits infringement does not make power providers, cloud storage companies or ink providers culpably responsible for that infringement if they continue to provide service," Yen argued, adding a court has to weight the value of the infringement against the consequences of terminating service before finding any defendants culpable.



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“That is why sending notices to the power company about customer infringement would not create liability for failing to suspend electrical service. Turning off the power means that the customer’s food will rot, life critical equipment will not work, and her heat may fail.”

## CHARTER RAISING VIDEO RATES FOR NEW CUSTOMERS

**Charter**’s been striking new programming deals, and while the terms of those aren’t public, rate increases to its video packages are. Starting Tuesday, the operator announced a rate increase for new video customers of \$4.26/month to its broadcast TV surcharge, bringing the surcharge to \$25.75/month. It cited an increase in programming costs for the new rate. The higher surcharge applies only to new video customers, not existing subscribers. The increase takes the monthly Spectrum TV Select package to \$120/month, while Spectrum TV Select Plus’ new all-in price is \$125/month and the Spectrum TV Choice plan rises to \$80. Spectrum Basic is increasing only \$0.26 to \$36.

## COGECO IN CONTROL

**Cogeco** is pretty much **Breezeline** now, with the Canadian parent company making good on its pledge to combine its U.S. and Canadian operations into a single North American operation. As a result, most of Breezeline’s U.S. senior leaders have lost their roles (attention recruiters!). Former Breezeline General Counsel *Leslie Brown* has joined Plano, TX-based **FiberLight**, which provides fiber networks for businesses, as Chief Legal Officer. *Frank van der Post* left his role as president in May when plans for the new structure were first announced. We hear *Heather McCallion*, VP, New Business & Business Transformation, will stay on for a transition period. Cogeco has hired *Mike Henry*, most recently EVP, Consumer Banking, Digital and Strategy at **Home Trust**, as its new Chief Commercial Officer. Cogeco Communications provides Internet, video and wireline phone services in Canada, and in 13 states in the U.S. under the **Cogeco Connexion**, **oxio** and **Breezeline** brand names. Breezeline also offers wireless services in most of the U.S. states in which it operates.

## SCTE FOUNDATION’S GLOW UP

The **SCTE Foundation** has completed an overhaul aimed to support and grow a skilled workforce for the future of the connectivity industry. The revamp includes an expanded mission statement, a new logo, the establishment of a New Ideas Committee centered on innovation that will drive future

investments, a restructuring of its board and the reveal of a new [website](#). The SCTE Foundation has also launched a Broadband Labor Academy, a pilot program specifically designed for aspiring fiber splicing technicians. Students will be able to experience hands-on training that is complemented by SCTE coursework and mentorship opportunities with industry experts. SCTE has already partnered with **The WICT Network** to craft the Women’s TechConnect, an initiative focused on fostering mentorship and support for women in tech, but the SCTE Foundation is now also exploring expansions of the program to support other diverse groups in the industry.

## CARRIAGE

**Philo** added six FAST channels: PBS/Antiques Roadshow, BUZZR, CineLife, Baywatch, CraftsTV and The Price is Right: The Barker Era. These new channels can be found in Philo’s standalone free offering, which features more than 90 channels. They are also available in its \$28/month Philo Core package, which includes networks such as **A&E**, **HGTV** and **Nickelodeon** along with the ad version of **AMC+**. – **DirectTV** added FAST channel **Fox Weather**, making it available to customers with the Entertainment package or higher. Since launching in the fall of 2021, Fox Weather has secured distribution through a number of partners, including **Samsung TV Plus**, **Verizon Fios**, **Xumo Play**, **DISH Network** and **Hulu + Live TV**.

## NATIONAL PRIVACY LAW PUSH

**Senate Commerce** Chair *Maria Cantwell* made her pitch for a federal comprehensive privacy law at Forum Global’s 6th Annual Data Privacy Conference Tuesday. “The United States needs to assert global leadership on privacy. ... As many of you know, 70% of countries around the world have enacted a national privacy law. The United States—wanting to be the tech innovator, and home... to the largest tech companies and data centers—you also need to be the leader, not just on innovation, but on rooting out bad actors,” she said, pushing that the U.S. take a different approach to Britain’s GDPR. Cantwell argued that cookies and notices aren’t enough, citing a study that consumers would need to spend 47 hours a month to read through privacy policies for the most commonly used websites. In April, Cantwell and **House Commerce** Chair *Cathy McMorris Rodgers* (R-WA) unveiled the American Privacy Rights Act, comprehensive draft legislation that sets clear, national data privacy rights and protections for Americans, eliminates the existing patchwork of state comprehensive data privacy laws and establishes robust enforcement mechanisms to hold violators accountable, including a private right of action for individuals.

### WEEKLY RATINGS

With its simulcast of **ABC News'** presidential debate leading all of cable, **Fox News** took first place in prime among ad-supported cable nets last week, averaging 3.15 million viewers, per **Nielsen**. **MSNBC** was runner-up with 2.09 million, followed by **ESPN** (1.88m), **CNN** (1.2m) and **Hallmark Channel** (645,000). Fox News also led total day, but the race was tighter. It averaged 1.58 million compared to MSNBC's 1.16 million. – **Newsmax** ranked 13th last week in prime, with 362,000 viewers. That put it ahead of nets such as **Food Network** ((356K), **TNT** (277K), **AMC** (255K) and **NewsNation** (103K).

### DIVERSITY WEEK DOINGS

The **WICT Network's** Leadership Conference (Oct. 21-22, NY Marriott Marquis) includes an industry CEO panel with **Charter Communications'** *Chris Winfrey* and **Cox Communications'** *Mark Greatrex*, moderated by **TV One/CLEO TV** president *Michelle Rice*. WICT Network and **NAMIC** will also hold a joint town hall on Oct. 22 to discuss the result of the latest AIM/PAR Diversity Surveys. – **NAMIC** will host its 38th annual conference Oct. 22-23. *Cheryl Wills*, an Emmy Award-winning journalist from **Spectrum News NY1**, will receive the 2024 Mickey Leland Humanitarian Achievement Award during an awards lunch on Oct. 23. – Don't forget the annual **Kaitz Dinner** on Oct. 23. This year's fundraising dinner is co-chaired by **AspireTV** SVP, Multicultural Networks & GM *Angela Cannon* and **Cox Communications** President *Mark Greatrex*.

### AT THE COMMISSION

The **FCC** reached a \$13 million settlement with **AT&T** Tuesday to resolve an Enforcement Bureau investigation into the integrity of the company's supply chain and a January 2023

data breach of the cloud environment of one of its vendors. That vendor generated and hosted content including billing and marketing videos for AT&T customers, and it should have destroyed or returned AT&T customer information when it was no longer needed to meet contractual obligations. Under AT&T's contract with the vendor, the vendor should have deleted that data years before the breach occurred, and the Enforcement Bureau's investigation dove into whether AT&T engaged in unreasonable privacy, cybersecurity and vendor management practices in connection with the breach. As part of the settlement, AT&T entered into a consent decree that saw it commit to enhancing the tracking of customer data, requiring vendors to adhere to retention and disposal obligations and implementing vendor controls and oversight.

### USCELLULAR TACKLES STEM GAP

**UScellular** is partnering with the **YWCA** to investigate why children's interest in STEM declines as they age. The two are launching an updated STEM program guide that includes proprietary research diving into the issue among youth, particularly girls, in underserved communities. This fall, YWCA plans to roll out a new afterschool program through its TechGYRLS initiative aimed at inspiring girls in grades 3-8 to consider future careers in science, math, engineering, technology and more.

### PEOPLE

*Anthony Carlson* was named VP, Organizational Transformation for **TDS Telecom**. He joins from sister company **UScellular**, which is being sold to **T-Mobile** in a \$4.4 billion transaction that's expected to close next year. Carlson will lead a new team to assist in the development and implementation of a comprehensive roadmap for TDS Telecom's future.

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