Mt. Hood Cable Regulatory Commission
Mini Retreat Agenda for April 23, 2024
Location: The Portland Building Room 210
1150 SW 5th Ave, Portland, OR 97204
And Zoom:
https://us06web.zoom.us/j/81489174542?pwd=y6vXPDPCiCOvYfOEzhdbwNc7va6AUY.1
Meeting ID: 814 8917 4542
Passcode: 212114

4:30pm – 8:30 pm

Objective

Mt. Hood Cable Regulatory Commission will convene for a four-hour "mini retreat". The objective is for commissioners to prepare themselves, staff, and consultants to successfully navigate strategic planning efforts with jurisdictions to better align regulatory and operating structures with contemporary needs. Specifically, this retreat will seek to help participants better understand the underlying drivers impacting the commission's ability to fulfill its roles as a regulator, consumer advocate, and grantmaker into the future. It will also seek shared agreement around the decision-making process, roles, and direction to staff and consultants. Upon completion of this meeting, participants should walk away with the following:

1. a shared understanding of the responsibilities, challenges, opportunities, and internal and external dynamics impacting the MHCRC,
2. an agreed-upon approach for working with jurisdictions to make decisions related to the future of the MHCRC, and
3. clear direction for commissioners, staff, and consultants to facilitate and undertake an effective strategic planning process.

4:30 **Welcome / Opening Remarks and Objectives**

4:40 **Presentation: FY24-25 Goals & Objectives**

4:55 **Context Setting:**

- **Presentation**
  - **Operating/Fund Budget Forecast**
  - **The IGA & Legal/Policy Framework**
  - **Interview Themes**
- **Discussion**
  - **Reflections on past/current/future of IGA – the role of the jurisdictions, and by extension "the" or "a" Commission, as advocates and regulators of communications technology access and use**

6:25 **BREAK**

6:35 **Jurisdiction Engagement Strategy**

MHCRC 1810 SW 5th Ave. Suite 710 Portland, Oregon 97201
503.823.5385 info@mhcrc.org www.mhcrc.org

7:35 Executive Session

The MHCRC will hold an executive session during the April 23rd MHCRC Mini Planning Retreat for approximately 45 minutes to consult with the Commission's legal counsel regarding the MHCRC's legal rights and duties regarding franchise renewal, as provided under ORS 192.660(2)(f).

Representatives of the news media and designated staff shall be allowed to attend. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No recording of the executive session is allowed without express permission from the Commission. No final decision may be made in executive session.

8:20 Reconvene – Closing Remarks and Comments

8:30 Adjourn

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MISSION

The Mt. Hood Cable Regulatory Commission advocates for and protects the public interest in the regulation and development of cable communications systems in Multnomah County and the Cities of Fairview, Gresham, Portland, Troutdale, and Wood Village (Jurisdictions); provides consumer protection and complaint resolution assistance to cable subscribers; and participates in the planning and implementation of community uses of communications technologies.

GOALS AND OBJECTIVES

Effective: July 1, 20243 – June 30, 20254

The Commission acknowledges that its policy and regulatory work is undertaken in a dynamic communications technology environment. Consequently, the Commission retains flexibility to modify or revise these Goals and Objectives as may be required from time to time.

Goal I: *Advocate for continued local authority regarding cable franchises and use of the public rights of way by communication providers.*

Objectives

1. EngagePresent recommendations to the Jurisdictions on updates to the current IGA.
1.2. Present recommendations to the Jurisdictions Jurisdictions in strategic planning to reviewabout the Commission's future role, authority, and structure of an IGA among the jurisdictions responsive to the changing policy and technology landscape, cable franchising regulatory and funding issues and what's at stake for our communities.
2.3. Continue cross-jurisdictional collaborations for information sharing and coordinated strategies on issues of common concern.
3.4. Participate in statewide committees or groups that address local government authority, management, and control of public rights of way, such as the Oregon Broadband Advisory Council and League of Oregon Cities public policy committee.
4.5. Monitor and participate in FCC proceedings on behalf of our jurisdictions' and citizens' interests.
5.6. Advocate for local authority and public interest benefits at the federal legislative level.

Goal II: *Effectively negotiate and administer cable services franchise agreements to serve member jurisdictions and their residents*.

Objectives

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503.823.5385 info@mhcrc.org www.mhcrc.org

1. Negotiate cable services franchise agreements with Comcast that address cable-related community technology needs and interests and consumer protection issues and trends.
2. Manage cable provider market exit and entry that support jurisdictional interests and community needs.
3. Identify and address franchise compliance issues in response to and, when possible, prior to cable company actions.
4. Provide consumer protection for community members and subscribers in cable service matters by helping to resolve complaints, enforcing customer service standards and addressing other consumer-related franchise compliance issues.
5. Conduct an audit of franchise and PEG~~/I-Net~~ fees payments for the past three years.

Goal III: *Focus the community grants program on key impacts for addressing needs and equity issues identified by the community/stakeholders to guide the financial investment of capital funds in the community.*

Objectives

1. Conduct the annual Community Technology Grants round to continue development of public, educational, and governmental uses of cable system technology.
2. Convene grantees in a shared learning event that builds awareness of the ecosystem of organizations working with video technology and to solicit feedback on the grantmaking process.
3. ~~2.~~ Explore grant-making opportunities that utilize community access and PEG Capital funds to support the development of public, educational, and governmental uses of cable system technology consistent with the grant purpose and criteria.
4. ~~3.~~ Monitor projects that have received grant funding to ensure compliance with project goals and objectives and accountability for grant funds.

Goal IV: *Ensure access to and use of current and new services available through the cable system technology by citizens, local governments, and community institutions.*

Objectives

1. Manage and ensure compliance with the terms of grant agreements with Open Signal and MetroEast Community Media.
2. Monitor and ensure accountability for capital funds paid to Open Signal and MetroEast Community Media.
3. Collaborate with organizations, at the federal, state, and local levels to advocate for the community's access to cable system technology.

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4. Partner with the City of Portland and Multnomah County and other community groups in developing and implementing strategic actions and initiatives in support of the Digital Equity Action Plan.

Goal V: *Lead Commission operations efficiently and effectively.*

Objectives

1. Engage ~~with~~ in the City of Portland's Charter Reform decision-making process on the placement and structure of the MHCRC staff services within the City of Portland to ensure transparency and continued provision of a high level of service to MHCRC's stakeholders and communities.
2. Plan and conduct Commission meetings in a way that respects the volunteer nature of Commission positions and is in accordance with Oregon Open Meeting laws.
3. Conduct annual strategic planning and goal-setting process.
4. Conduct annual MHCRC evaluation of staff services.
5. Conduct annual MHCRC Fund Audit and transmit it to the Oregon Secretary of State's Office.
6. Present an annual budget request to the Jurisdictions that supports the Commission's mission and respects the Jurisdictions' budget considerations.

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Exhibit A
Statement of Work and Price

SECTION 1 SUMMARY

Objective: The Mt. Hood Cable Regulatory Commission ("MHCRC") desires to 1) educate MHCRC jurisdictions about the work of the MHCRC, 2) determine the future needs of the MHCRC member jurisdictions regarding the cable and telecommunications system, 3) develop a long-term strategy to meet the cable, telecommunications system, and community media needs of the jurisdictions, and 4) create recommendations for a new IGA to govern aforementioned priorities (the "Project").

Overview: The Mt. Hood Cable Regulatory Commission (MHCRC) was formed in 1992 to negotiate and enforce cable service franchise agreements; manage the public benefit resources and assets derived from the franchises; and advocate on behalf of the public interest on cable policy issues at local, state, and federal levels.

The MHCRC serves the communities, residents, and local governments of the six member jurisdictions: Multnomah County and the cities of Fairview, Gresham, Portland, Troutdale and Wood Village.
An Intergovernmental Agreement (IGA), established in 1992 and amended in March 1998, outlines the Commission's purpose, powers, membership, meetings, rules of procedure, and officer structure. The IGA grants the MHCRC the authority to advocate for and protect the public interest in the regulation and development of cable communications systems within the Jurisdictions; to monitor and help resolve cable subscribers' concerns in these jurisdictions; and to participate in the planning and implementation of community use of cable communications technologies which make use of the public right of way. Since adoption of the IGA, cable communications systems have evolved beyond cable television to include broadband, but the policy structure governing local authority has not kept pace. The MHCRC has continued to fulfill its mission and purpose under the IGA for the past 23 years. While the MHCRC has continued to expand its expertise as technology converge, the IGA has not been updated in 23 years to allow the MHCRC to fully capitalize on the expertise to serve the jurisdictions.

Over the years, the Commission has managed up to four cable franchises and now oversees two for the East County Jurisdictions and one for Portland. The Commission applies a legal framework, provided for in The Cable Act of 1984 (as amended) to govern cable systems and cable service providers, which includes compensation to member jurisdictions in the form of Franchise Fees, provisions for Public, Education and Government access (PEG), and other negotiated, non-monetary benefits. Some companies that entered the market as cable television providers, such as CenturyLink (Lumen), have ceased offering video service, but continue to provide broadband internet connectivity to residents. Ziply has indicated they would like to cease offering video service at the end of 2023. Companies that do not offer video service are no longer regulated by the cable franchise agreements or the Cable Act. Federal law does not provide the same legal framework to support local governments' work with telecom and internet companies.
In addition to the rapid evolution of technology and a shifting regulatory landscape, changes implemented by the City of Portland in 2018 have made portions of the staff services agreement, which

accompanies the IGA, obsolete. An example of this is the City of Portland's decision to cease legal representation of the MHCRC.

The MHCRC must update the IGA and staff services agreement to reflect current and future goals of the Jurisdictions, to address evolving technology, regulatory oversight, community needs and staff operations. This planning must be done with the jurisdictions and result in updates to the IGA that all jurisdictions can agree and commit to.

Following is a list of suggested key questions for the jurisdictions to answer. The answers to questions, such as these, will support the Commission's update of the IGA, will fortify the Commissions strategic plan, and will ensure the Commission's alignment with member jurisdiction priorities.

Jurisdiction satisfaction with MHCRC

- Are jurisdictions aware of the role of the MHCRC?
- Are the jurisdictions feeling well served by the MHCRC?
- As cable revenues decline, how does the purpose of this body change? What percentage of their franchise fees are jurisdictions willing to continue to contribute to cable oversight?
- Do the Jurisdictions see a need to remain coordinated to collectively advocate, plan, negotiate telecommunications services regardless of the policy framework?

Future Opportunities

- Do jurisdictions currently have dedicated staff working on franchise and right-of-way fee issues? Are jurisdictions part of any groups that address cable, internet, or the telecommunications system?
- What are the priorities of the jurisdictions when it comes to the cable and telecommunications system?
- What are the values that should guide the work?
- Are jurisdictions aware of the legal and regulatory framework governing broadband such as the Permanent Internet Tax Freedom Act?
    - Would jurisdictions be willing to provide a higher percentage of franchise fees for the MHCRC or a similar body to address franchise and right-of-way fees including exploring broadband?
    - What should be the collective effort?
- Currently, the MHCRC can provide capital grants via the PEG funds. Would jurisdictions be willing to explore funding solutions to provide operational support to small non-profits to help community groups leverage these capital dollars?
- Describe the ongoing identifiable need/value of these capital grant dollars within the nonprofit, educational and governmental sectors.
- Both MetroEast and Open Signal heavily rely on cable franchise PEG fees for capital. MetroEast relies heavily on East County franchise fees for operational funds while Open Signal relies heavily on an operations grant from the City of Portland. As cable franchise fees decrease, are jurisdictions willing to continue to support the Community Media Centers through other means? If so, how?

Composition of MHCRC

- Is the Commissioner structure the best structure to meet the future needs?
- Currently the MHCRC is composed of 3 Portland representatives and 1 representative of each of the following jurisdictions: Fairview, Gresham, Troutdale, Wood Village, and Multnomah County. Do you believe this is the proper representation?
- Are there additional requirements /expertise jurisdictions would like of staff or commissioners?
- Are jurisdictions aware of how the percentage they contribute to the MHCRC is calculated? Are they willing to revisit this system?

Anticipated Process:

1. Education sessions with each of the member jurisdictions which should include staff and MHCRC representatives.
    a. What does the MHCRC do?
    b. What is the legal and policy framework governing cable and telecommunications technology then and now?
2. Interviews of each jurisdiction
3. Interviews/focus groups with MHCRC's grantee community including the community media centers (Open Signal & MetroEast Community Media) and previous/current Community Technology grantees to help inform how the MHCRC Community Grants program, and the MHCRC as a whole, can continue to adapt to meet community needs respective to limitations around funding streams, funding use and mindfulness toward the equity needs their organizations serve every day.
4. Analysis of findings
    a. Include SWOT analysis of current IGA
    b. Include shared principles and priorities and unique jurisdiction perspectives
    c. Include options for proposals for how to move forward
    5. Present findings to MHCRC and jurisdictions and conduct work session
    6. Finalize findings and recommendations for future IGA
    7. MHCRC presents process and findings to each city council

Anticipated Outcomes:

1. The future of collaboration on cable, internet, and telecommunications technology including shared principles and priorities.
2. Direction for collective efforts on cable, internet, and telecommunications technology in the future.
3. Direction for collective efforts on how to promote, teach, and develop local community media.
4. Funding opportunities and agreement for collective efforts on cable, internet, and telecommunications technology in the future.

SECTION 2 SCOPE OF WORK

Contractor shall provide the following Services:

Contractor shall guide the MHCRC through the evolving challenges and opportunities facing the cable and telecommunications landscape using a three-phase approach to strategic planning:

1. **Preparation Phase** - Education and Initial Assessment: Engage with member jurisdictions and stakeholders to understand current perspectives and align strategic planning efforts with MHCRC's needs and objectives.
2. **Analysis Phase** - Stakeholder Engagement and In-Depth Analysis: Conduct thorough research, interviews, focus groups, and data analysis to assess the current regulatory and market landscape, identifying future opportunities and challenges associated with operating the organization and adequately supporting the community amid an evolving cable and telecommunications sector.
3. **Strategic Development Phase** - Presentation, Finalization, and Consensus-Building: Develop a comprehensive, forward-looking strategic plan that addresses identified needs and positions MHCRC for increased organizational certainty amid industry and regulatory changes.

SECTION 3 TASKS AND DELIVERABLES

The individual tasks and Deliverables are described in more detail below:
Each phase of the Project shall focus on specific objectives to guide the project towards its goals:

- Phase 1: Education and Initial Assessment

Objective: Educate member jurisdictions about MHCRC's role and assess their current satisfaction and future needs.

- Phase 2: Stakeholder Engagement and In-Depth Analysis

Objective: Conduct comprehensive research and analysis, gathering detailed insights for strategic planning.

- Phase 3: Presentation, Finalization, and Consensus-Building

Objective: Present findings and collaborate on the development of strategic recommendations for the future Intergovernmental Agreement (IGA).

This strategic planning process will empower the MHCRC and its member jurisdictions to make well-informed decisions in response to the evolving dynamics within the cable and telecommunications sector. This process shall be designed to enhance understanding of MHCRC's role, increase clarity, and build consensus on strategic direction, and guide the MHCRC and its member jurisdiction in structuring a funding model for the future. Each phase shall contribute to this overarching goal, laying the foundation for a comprehensive and collaborative strategic planning process that thoughtfully engages both internal and external stakeholders, including community grantees. Contractor's approach shall be designed for flexibility within the structure, allowing for the incorporation of ongoing insights, external developments, and shifting stakeholder perspectives as the MHCRC considers its options and develops its plans.

Deliverables shall be considered those tangible resulting work products that are to be delivered to the MHCRC such as reports, draft documents, data, interim findings, drawings, schematics, training, meeting presentations, final drawings, and reports.

SECTION 4 PROJECT SCHEDULE

The detailed Project schedule is shown below.

Phase	Activities & Milestones	Lead	Timeline

1: Education and Initial Assessment	Kickoff and Project Planning	NEX Strategies	January
	Develop and Distribute Questionnaire for Jurisdictions (or Interviews if preferred); Literature Review	NEX Strategies	January - February
	Conduct Education Sessions with Jurisdictions	MHCRC Staff with support from NEX Strategies	February - March
	Baseline Assessment of Jurisdiction Satisfaction with MHCRC	NEX Strategies	February - March
2: Stakeholder Engagement and In-Depth Analysis	Individual Interviews with each Jurisdiction (est. 2-3 interviews per Jurisdiction)	NEX Strategies	April - May
	Focus Groups with MHCRC's Grantee Community (3-4 sessions); Individual Interviews with Key Grantee Community Stakeholders (est. 12-15 interviews)	NEX Strategies	June - July
	SWOT Analysis of IGA, Stakeholder Analysis, and Development of Strategic Proposals; Review Assessment with MHCRC Staff	NEX Strategies	July - August
3: Presentation, Finalization, and Consensus-Building	Presentation of Initial Findings to MHCRC and Jurisdictions	NEX Strategies	September - October
	Facilitate IGA Work Session(s) (1-2) with MHCRC Staff and Jurisdictions	NEX Strategies	September - October
	Finalization of Strategic Recommendations	MHCRC staff with support from NEX Strategies	October – November

	for Future IGA; Presentation to Each City Council		
	Final Decision-Making and Budget Development	MHCRC Staff with support from NEX Strategies	November - December

SECTION 5 WORK PERFORMED BY MHCRC/OTHERS

The MHCRC has assigned a Commission Project Manager to oversee the Contractor's work and provide support as needed. The MHCRC anticipates that, in addition to the Project Manager, other MHCRC staff, Commission Members, and others will also dedicate time to this Project. Duties MHCRC staff anticipate performing include:

- Making available sufficient hours of staff time to meet with contractor to oversee the work and provide support as needed.
- Collaborating with the contractor in developing key components of the Project, vetting the plan with key stakeholders, Commission Members or other appropriate constituencies.
- Providing administrative and logistics support for meetings; documents and reports, etc.
- Assisting contractor in implementing agreed upon aspects of the plan.
- Conducting research as needed.
- Facilitating use and availability of technology tools available through MHCRC/City of Portland resources (such as online surveys, instant electronic polling for meetings; video and phone conferencing, ADA support, etc.).

SECTION 6 PRICE

The maximum that the Contractor can be paid on this contract is $115,000 (the "not to exceed" amount). The "not to exceed" amount includes all payments to be made pursuant to this contract, including reimbursable expenses, if any.

Contractor is entitled to receive progress payments for its work pursuant to the contract. The MHCRC will pay Contractor based on these invoices for acceptable work performed and approved until the "not to exceed" amount is reached. Thereafter, Contractor must complete work based on the contract without additional compensation unless there is a chance in the scope of work through a change order.

Any estimate of hours necessary to perform the work is not binding on the MHCRC. The Contractor remains responsible if the estimate proves to be incorrect. Exceeding the number of estimated hours of work does not impose any liability on the MHCRC for additional payment.

If work is completed before the "not to exceed" amount is reached, the Contractor's compensation will be based on the Contractor's bills previously submitted for acceptable work performed and approved.

DRAFT: MHCRC Jurisdiction Engagement Plan

April 4, 2024

Strategy & Objectives

As the cable and telecommunications landscape continues to evolve, the Mt. Hood Cable Regulatory Commission (MHCRC) is committed to ensuring its strategic planning and intergovernmental agreement (IGA) accurately reflects the needs and aspirations of its member jurisdictions: Portland, Fairview, Wood Village, Gresham, Troutdale, and Multnomah County. This plan is designed to facilitate strategic, collaborative, and informed interactions between the MHCRC and the jurisdictions.

As part of the engagement process, we have several core objectives:

- **Establish a Baseline Understanding of the MHCRC.** To provide jurisdictions with comprehensive insights into the MHCRC's roles, accomplishments, challenges, and strategic direction. This includes providing sufficient information on cable regulation, consumer advocacy, management of franchise fees, and support for community media.
- **Assess Needs and Align Strategies.** To gather input regarding each jurisdiction's specific needs and expectations from the MHCRC, particularly concerning cable and telecommunications systems, support for community media, and any necessary adjustments in the IGA to enhance service delivery to their communities.
- **Establish Constructive Relationships.** To build and maintain positive, working relationships with key points of contact within each jurisdiction, ensuring open lines of communication and facilitating ongoing collaboration.
- **Promote Informed Decision-Making.** To ensure that key jurisdiction stakeholders are well-informed about the MHCRC's initiatives, enabling them to make knowledgeable decisions regarding the commission's future.

With its adaptable approach, this strategy is designed to enhance the MHCRC's connection with its member jurisdictions by deepening its understanding of each one's unique needs and ensuring its strategic planning and potential IGA revisions are in alignment with the communities' evolving requirements. Establishing constructive relationships and promoting informed decision-making are pivotal to the commission's efforts, ensuring that the strategic direction it pursues is both effective and reflective of the collective vision for the future of cable and telecommunications systems in the region.

Situation Analysis

The MHCRC is navigating the industry transition from traditional cable television to broadband-centric services, amid a shifting regulatory landscape. This evolution directly impacts the commission's operational model and revenue sources, primarily through declines in cable franchise and Public, Educational, and Governmental (PEG) fees, exacerbated by the dwindling

number of cable subscribers. As Ziply is exiting the market, Comcast is positioned to be the last remaining cable provider under the MHCRC's regulatory purview, with negotiations ongoing for its cable franchise agreement. The prospect of Comcast's exit from the cable market to focus on broadband services would eliminate the MHCRC's ability to collect franchise and PEG fees, threatening the financial stability of essential community media centers like MetroEast and Open Signal, which rely on these fees for operations and capital funding. Additionally, the fees support the MHCRC's competitive community grants program, which supports video production initiatives across its jurisdictions. Furthermore, legislative developments elsewhere suggest local jurisdictions may soon have the authority to regulate broadband providers.[1]

These complex dynamics underscore the need to reassess and consider updates to the IGA and staff services agreement, necessitating a strategic response that aligns with the technological, regulatory, and community shifts. The anticipated continued decline in cable fee revenue will impact jurisdictions directly and indirectly – directly through the reduction in fees allocated to them, and indirectly through the decline in support PEG access providers and local grant recipients.

As part of this jurisdiction engagement effort, we aim to better understand what jurisdictions anticipate needing as they consider the impact of these situational dynamics playing out into the future. Furthermore, we seek to incorporate this information into MHCRC commissioner and staff considerations of required resources, potential structural changes, and overall strategy development.

Engagement by Jurisdiction

Within each jurisdiction, the initial priority will be to identify and meet with key operating points of contact who can help inform our understanding of needs and dynamics related to financials, technology, public access, and cable franchise agreements. Depending on the jurisdiction, these points of contact are likely to be in the City Manager's, Planning, Mayor's, or a key Commissioner's office. This process will help introduce the MHCRC's strategic planning efforts, educate key stakeholders about the commission's role and dynamics, and provide information back to the commission about the jurisdiction's needs. MHCRC staff will manage ongoing engagement with these contacts throughout the process, providing periodic updates and undertaking key planning meetings as needed. Anticipating more technical discussions and heavier time requirements, staff and consultants plan to convene these meetings, and MHCRC Commissioners will be invited to participate. These meetings are anticipated to begin in April 2024.

The commission would also like to provide brief updates to jurisdiction councils, who are responsible for approving the MHCRC's operating budget and whose perspectives are key for shaping potential changes to the IGA. Through a combination of staff, consultants, and

[1] Orenstein, Walker. "Some Minnesota cities want to impose fees on internet providers; customers could pay the price". StarTribune. March 27, 2024. <https://www.startribune.com/franchise-fee-internet-cable-provider-rural-broadband-media/600354375/>.

commissioners, the MHCRC plans to provide brief overviews of its work to councils. These meetings are anticipated to begin in May or June 2024.

Below is a summary of current plans to initiate discussions with key points of contact within each jurisdiction.

Table 1. Stakeholders by Jurisdiction

Jurisdiction	Commissioner	Jurisdiction Contact	Notes
Fairview	Dennerline	● Rachel Fuller, Interim City Manager ● Planning Dept ● Recorder	Roles in transition, Dennerline on Council; Recorder knows MHCRCS best, council may have limited capacity
Gresham	Wagner	● Steve Fancher, Deputy City Manager - Public Works	Limited direct engagement with commission
Portland	DeGraw, Goodlow, Roche	● Donnie Oliveira, Deputy City Administrator & Former BPS Director ● Commissioner Rubio	City navigating substantial change due to gov't transition; Oliveira familiar with key dynamics; Engage within BPS and Service Area primarily at start, possibly BTS
Troutdale	Thomas	● Ray Young, City Manager	Commissioner Thomas wants to be actively involved throughout engagement
Wood Village	Harden	● Greg Dirks, City Manager ● John Miner, Mayor	Council likes to be informed re MHCRC
Multnomah Co.	Studenmund	● Commissioner Brim-Edwards ● Eric Zimmerman, Chief of Staff to Brim-Edwards	Staff recently met with Brim-Edwards office – not likely to engage actively early in process

Risks Management and Mitigation

As part of its jurisdiction engagement efforts, the MHCRC must navigate an array of potential risks that could impede progress and affect outcomes. To mitigate these risks effectively, understanding and planning to pre-emp them is key. The following table categorizes potential risks across three broad areas: Scope & Expectations, Communication, and Decision-Making Process. For each category, we've identified specific risks (e.g. as mismatched priorities, information overload, and conflicts of interest) and outlined potential mitigation strategies

ranging from clarifying roles and establishing consistent messaging to proactive legal reviews and adapting to jurisdictional preferences. This proactive risk management approach is designed to sustain the engagement process's integrity, ensuring it remains constructive, transparent, and aligned with the MHCRC's strategic objectives.

Table 2. Potential Risks and Mitigation Strategy

Category	Key Risk	Description	Mitigation Strategy
Scope & Expectations	Mismatched or unclear priorities	Misaligned understanding of local priorities between commissioners and their jurisdictions can lead to an incomplete or inaccurate understanding of jurisdiction needs.	Clarify roles for commissioners, staff, and consultants when engaging with jurisdictions. Ensure opinions, facts, and personal perspectives are clearly identified.
Scope & Expectations	Mismatched expectations	Regulatory and legal constraints may restrict the commission's ability to adequately address jurisdiction needs with current authority, potentially resulting in frustration and disappointment	Proactively communicate and reiterate the commission's legal responsibilities and role as a regulator, including critical limitations. Pursue legal review of major recommendations that might be in conflict, communicating the need for formal legal review early in the process.
Communication	Creating information overload	Excessive communication (in volume, detail, or misaligned to the audience) can lead to confusion and dilution of key messages.	Prioritize communications for audience relevance and impact.
Communication	Inconsistent or unclear information	With various jurisdictions, communication preferences, and capacity for engagement, there's a risk of inconsistent messaging.	Develop a set of core consistent messages and cadences. Regularly align messages across separate engagements.
Communication	Information Gaps	Shifting commissioner, jurisdiction, and staff roles could lead to knowledge	Leverage written educational materials that communicate key

		and or communication gaps.	messages, facts, and items for consideration. Share information with internal stakeholders to ensure ongoing access.
Decision-Making Process	Conflict of Interest	Commissioners serving in multiple roles (e.g. council members, jurisdiction staff) could reduce role clarity and introduce potential conflicts related to making decisions while wearing multiple hats.	Establish clear guidelines and expectations for commissioners serving in multiple roles, especially when engaging jurisdictions, sharing perspectives, or making key decisions.
Decision-Making Process	Limited interest among jurisdictions	Due to limited operational capacity, political will, or other preferences, jurisdictions may exhibit limited interest in engaging MHCRC, potentially compromising decision-making.	Adapt to stated communication and engagement preferences to the extent feasible. Request to be connected with potential contacts that may have more capacity, relevant knowledge, or interest in engaging.

INFORMATION ONLY

March 20, 2024

Rep. Ginny Klevorn, Chair
House Committee on State and Local Government Finance and Policy
Minnesota House of Representatives
581 State Office Building
St. Paul, MN 55155
651-296-5511
Rep.ginny.klevorn@house.mn.gov

Rep. John Huot, Vice Chair
House Committee on State and Local Government Finance and Policy
Minnesota House of Representatives
591 State Office Building
St. Paul, MN 55155
651-296-4306
Rep.john.huot@house.mn.gov

Re: In Support of HF 4182 – Equal Access to Broadband Act

Dear Chair Klevorn, Vice Chair Huot and Committee Members,

The National Association of Telecommunications Officers and Advisors (NATOA) is pleased to support HF 4182, the Equal Access to Broadband Act.

NATOA is the national association that represents the broadband and telecommunications needs and interests of local governments, and those who advise local governments. NATOA's membership includes local government officials and staff members from across the nation whose responsibility is to advise and implement telecommunications policy and the provision of such services for the nation's local governments. These responsibilities range from cable franchising, rights-of-way management and government access programming to information technologies and Institutional Network (I-Net) planning and management.

The Minnesota Association of Community Telecommunications Administrators (MACTA), your state trade association representing Cities, Cable Commissions and Community Television Stations across the state, is an active and valued chapter of NATOA focusing on broadband, local franchising and PEG programming issues.

This legislation will allow Minnesota cities, counties and joint power authorities (JPA's) to ensure that their residents have equal access to the same quality of broadband service, no matter what neighborhood they live in. The Equal Access to Broadband Act will allow local governments to negotiate franchise agreements for use of the public rights-of-way by broadband providers.

The National Association of Telecommunications Officers and Advisors
3213 Duke Street, #695 | Alexandria, VA 22314 | 703-519-8035 | www.natoa.org

Minnesotan communities have a 40+ year history of franchising cable TV providers. HF 4182 will modernize the benefits of franchising for your residents, businesses, schools, and nonprofits. Local franchising is a proven and effective way of ensuring buildout provisions by operators that deny redlining or cherry picking while providing non-compliance provisions, local oversight of commercial users in streets and on public assets, and local customer service resolution.

In addition, HF 4182 will modernize the funding structure of local community access television. Cities, counties and JPA's rely on cable TV franchise fees and Public, Educational and Government (PEG) fees to support diverse local coverage that empowers residents to engage in their community and affords transparency in local governing. This valued local programming includes government meeting (boards and commissions) broadcasts, candidate and election programming, community event and festival coverage, business and chamber of commerce updates, education and health updates, and local news, high school sports, art, music, and nonprofit programming.

Extensive local community programming by PEG programmers has become essential to the fiscal well-being of local communities with the loss of local newspapers and news coverage in many markets. Indeed, research has found that "when news organizations close, cities and residents pay—starting with increased borrowing costs."

According to municipal finance expert and former Kansas City Mayor, Mark Funkhouser, "A robust local media benefits local government, and it's in the best interest of local officials to support their news organizations.[1]

"Research shows that when news organizations close, cities and residents pay—starting with increased borrowing costs. A first-of-its-kind study in 2018 from the University of Illinois at Chicago and the University of Notre Dame found that "municipal borrowing costs increase by 5 to 11 basis points in the long run," translating to costs in the millions for those communities.[2] "There's also a correlation between higher taxes and higher government wages in areas that have lost a news organization."

Today, while local PEG programming has the technology and digital tools to distribute across both cable and many digital platforms, the PEG fees supporting that programming are only paid through traditional cable TV service subscribership. That is a subscriber base which is shrinking swiftly as households are being forced to choose digital streaming over cable video viewing options. Franchising broadband will level the playing field and provide ongoing funding to continue serving the needs of these communities and their programming.

[1] See Route Fifty's: "Local news is crucial to governance, and it's hurting " by Mark Funkhouser, president of Funkhouser & Associates, is a municipal finance expert who has spent decades in government service and is a former mayor of Kansas City.
https://www.route-fifty.com/management/2024/03/local-news-crucial-governance-and-its-hurting/395025/

[2] See Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance, Pengjie Gao, University of Notre Dame; Chang Lee and Dermot Murphy, University of Illinois at Chicago, July 11, 2018
https://www.brookings.edu/wp-content/uploads/2018/04/Murphy-et-al.pdf

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When cable television was an emerging technology, the state of Minnesota enacted the 1973 Minnesota Cable Act authorizing local franchising of cable systems. Through local franchising, the franchised cable operator has been required to provide the same quality of cable service to all residents. However, local franchising applies only to cable companies and not to phone or broadband-only providers.

Yet broadband is delivered by all three: cable, phone, and broadband-only companies. HF 4182 will modernize local franchising and lead to a more equitable deployment of broadband service to all residents, as well as greater consumer protections, and public benefits such as access television funding and digital training and opportunities for residents.

Thank you for your consideration of HF 4182, the Equal Access to Broadband Act.

We urge the Committee to support this important legislation.

Best regards,

Mike Lynch, Legislative & Regulatory Affairs
National Association of Telecommunications Officers and Advisors (NATOA)
MLynch@NATOA.org
617-327-8066 (c)

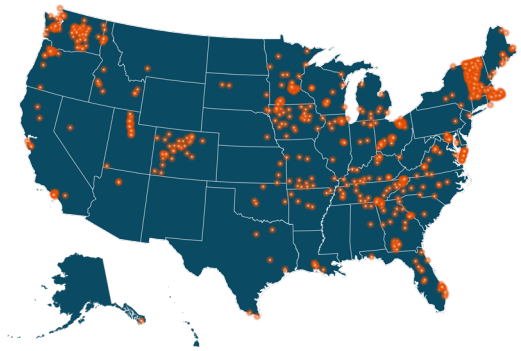
Cc: Eric Strouse, MATCA President

Jodie Miller, MACTA Legislative Co-Chair

Rising Tide of Municipal Broadband Networks

A growing number of U.S. communities are taking control of their own digital futures.

Over the last three years, there has been a dramatic surge in the number of communities across the nation building publicly-owned, locally controlled high-speed Internet infrastructure. **Since January 1, 2021, at least 47 new municipal networks have come online** with dozens of other projects in the planning or pre-construction phase – **up from the 2021 tally of 400 municipal broadband networks serving some 600 communities.**



Snapshots of New Municipal Broadband Networks Lit Up for Service Over the Last 3 years:

SHERBURNE, NY (SHERBURNE CONNECT)

- In Sherburne, the village's municipal utility, Sherburne Electric, worked with the New York Power Authority (NYPA) to extend NYPA's existing middle mile fiber network to bring last-mile fiber service to the village's 1,800 homes and businesses
- The open access network, known as **Sherburne Connect**, offers residents **two different ISPs from which to choose**: Fybercom and FiberSpark. Both offer a symmetrical 100 Megabits per second (Mbps) service for $10/month or symmetrical gig speed service for between $30 and $45/month.

CENTRAL VERMONT COMMUNICATION UNION DISTRICT (CV FIBER)

- One of the **state's 10 Communication Union Districts** established to build broadband networks to most towns across the Granite State, the Central Vermont CUD **connected its first fiber-to-the-home subscriber in October 2023** in the town of Calais. **Construction crews continue to expand** into the other 18 towns in CVFiber's service area.
- CVFiber offers subscribers symmetrical 100 Mbps service for $79 a month; symmetrical 500 Mbps service for $99 a month; symmetrical gigabit service for $129 a month; and symmetrical 2 Gbps service for $199 a month.

KNOXVILLE UTILITIES BOARD (KUB FIBER)

- Knoxville, Tennessee's Knoxville Utility Board (KUB) **completed the first phase** of its ambitious broadband deployment in 2023, bringing affordable fiber access to more than 50,000 premises in this city of 192,000
- KUB was driven to expand access after more than a decade of local frustration at the slow speeds, high prices, and spotty coverage caused by a notable lack of competition between regional telecom monopolies, AT&T and Comcast (Xfinity).
- Subscribers have the **option of three tiers of service**: symmetrical gigabit per second (Gbps) service for $65 a month; symmetrical 2.5 Gbps service for $150 a month; and symmetrical 10 Gbps service for $300 a month.

WATERLOO, IOWA (WATERLOO FIBER)

- Construction of the **Waterloo Fiber** network in the summer of 2023 with a **groundbreaking ceremony** hosted by Waterloo Mayor Quentin Hart.
- **Waterloo officials recently launched** their first limited fiber trial. With plans to connect its first commercial customers in February 2024, the project is on target to deploy affordable fiber service at speeds of up to 10 gigabit per second (Gbps) citywide by 2026
- Competing against the likes of CenturyLink and MediaCom, Waterloo Fiber is **offering residential subscribers** symmetrical 100 Mbps service for $30/month up to symmetrical 1 Gbps service for $70/month.

Municipal broadband networks across the country are routinely recognized as among the **fastest in the nation** with **high subscriber satisfaction rates**, which includes the likes of "America's first gig city," the municipal network in Chattanooga, EPB Fiber; and NextLight, the municipal fiber network in Longmont, Colo. Municipal networks have also garnered praise for turning cities into the **best work-from-home locations** in the country.

Visit **communitynets.org** – the nation's largest storehouse of information on community broadband – to follow the latest community broadband developments. Also be sure to visit our **Start A Community Network** page and our **Educate Your Local Community** page for those interested in learning more about community broadband networks.

January 17, 2024

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
45 L Street NE
Washington, DC 20554

Re:

Safeguarding and Securing the Open Internet – Notice of Proposed Rulemaking – WC Docket No. 23-320

REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS

Dear Secretary Dortch:

The National Association of Telecommunications Officers and Advisors ("NATOA") hereby files these Reply Comments in response to the Federal Communication Commission's (Commission) Notice of Proposed Rulemaking in Safeguarding and Securing the Open Internet – Notice of Proposed Rulemaking – WC Docket No. 23-320.[1]

Introduction

NATOA files these comments to express our support for the proposed reclassification of BIAS services under Title II, but to highlight our concerns with the potential preemption issues facing local government as a result of the reclassification of BIAS. NATOA would remind the Commission of the following principles that should guide federal communications policies that directly impact local governments and communities:

[1] NATOA is the national association that represents the broadband and telecommunications needs and interests of local governments, and those who advise local governments. NATOA's membership includes local government officials and staff members from across the nation whose responsibility is to advise and implement telecommunications policy and the provision of such services for the nation's local governments. These responsibilities range from cable franchising, rights-of-way management and government access programming to information technologies and Institutional Network (I-Net) planning and management.

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- Principle 1— Respect Local Government as Partners in Achieving Digital Equity
- Principle 2— Support Localism and Diversity of Voices
- Principle 3— Restore and Protect Local Rights-of-Way, Zoning and Siting Authority
- Principle 4— Elevate the Public Interest."[2]

NATOA encourages the Commission to refrain from broad preemption. Rather, the Commission should resolve any potential preemption issues arising from reclassification on an incremental or case-by-case basis.

NATOA files to associate itself with the Comments of the National League of Cities[3] (NLC) and the Communications Workers of America,[4] both of which support the Commission's proposal to reclassify broadband Internet access service (BIAS) as a telecommunications service under Title II of the Communications Act of 1934.

The NLC speaks on behalf of the 19,000 cities, towns and villages it represents and NATOA shares many of these same communities. NATOA agrees with NLC that "compliance with the following principles by all network owners and internet service providers, regardless of technology:

- Internet users and creators of services should have unrestricted access to and use of their choice of lawful Internet content, applications, and services;
- Internet users are entitled to connect their choice of legal devices to the network;
- Internet service providers should not engage in prioritization or throttling of content unrelated to public safety needs; and
- While network owners define the cost and technical limits of their service, consumers must receive meaningful information regarding their service plans, including but not limited to information about anticipated upload and download speeds.
- Each of these principles should apply regardless of an Internet user's income, race, geographic location, or disability.[5]

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[2] NATOA Federal Communications Policy: The Critical Role of Local Communities, 2021, Attachment #2

[3] Comments of the National League of Cities, Safeguarding and Securing the Open Internet – Notice of Proposed Rulemaking – WC Docket No. 23-320, Dec. 14, 2023.
https://www.fcc.gov/ecfs/document/1215761504735/1

[4] Comments of the Communications Workers of America, Safeguarding and Securing the Open Internet – Notice of Proposed Rulemaking – WC Docket No. 23-320, Dec. 14, 2023.
https://www.fcc.gov/ecfs/document/12142384527320/1

[5] Comments of the National League of Cities, Safeguarding and Securing the Open Internet – Notice of Proposed Rulemaking – WC Docket No. 23-320, Dec. 14, 2023.

NATOA welcomes the comments of the Communications Workers of America (CWA) which note that the "Commission should not shut out the important work of states and localities in ensuring that BIAS consumers are protected in areas where they have historic expertise and jurisdiction. The Commission should adopt net neutrality rules that are a nationwide floor, not a ceiling, and proceed incrementally addressing only those state or local legal requirements when it is not possible for BIAS providers to comply with both federal and state and local requirements.[6]

Long Held Position ….

NATOA is grateful to the Commission for issuing this NPRM. We attach the National Association of Telecommunications Officers and Advisors Broadband Principles, which were adopted by the NATOA Board of Directors in 2008 and advocate for open networks, network neutrality and non-discriminatory interconnection. More importantly, these principles underscore NATOA's belief that "local governments must be recognized as key partners to industry, states and federal government in broadband development."[7]

NATOA developed and adopted these Broadband Principles following the submission of comments filed by NATOA, the National Association of Counties and the National League of Cities in response to the Notice of Inquiry In the Matter of Broadband Industry Practices in 2007. Within those comments, NATOA noted NATOA's Board does not believe that a "communications provider should be allowed to favor one content provider, service or product over another. All persons purchasing specific communications services or products from a communications provider should receive access without any form of discrimination by the communications provider."[8]

NATOA and NLC have jointly advocated for such a position for more than 15 years. NATOA joined NLC in filing comments in 2014 in response to the FCC's NPRM Protecting and Promoting

https://www.fcc.gov/ecfs/document/1215761504735/1

[6] Comments of the Communications Workers of America, Safeguarding and Securing the Open Internet – Notice of Proposed Rulemaking – WC Docket No. 23-320, Dec. 14, 2023.
https://www.fcc.gov/ecfs/document/12142384527320/1

[7] Comments of the National Association of Telecommunications Officers and Advisors on Preserving the Open Internet, GN Docket No. 09-191, Broadband Industry Practices, WC Docket No. 07-52, Jan. 14, 2010
https://www.fcc.gov/ecfs/document/6015523772/1

[8] The National Association of Telecommunications Officers and Advisors, the National Association of Counties, and the National League of Cities Comments in the Matter of Broadband Industry Practices, WC Docket No. 07-52. Released April 16, 2007.
https://www.fcc.gov/ecfs/document/5514681160/1

the Open Internet. NLC and NATOA have a firm belief that "the Open Internet has empowered citizens and local communities by increasing civic participation, facilitating learning, and strengthening neighborhood businesses. With the availability of the Internet, city and state governments can live stream council meetings for public viewing, publish text of resolutions and other official documents, and communicate with their constituents directly online. Students can communicate with their teachers and with one another and can access immense databases of information from home, schools, libraries, and even neighborhood coffee shops. Through the Internet, small businesses and entrepreneurs can advertise and sell their products and services online and compete with much larger businesses on a level playing field."[9]

NATOA echoes the caution expressed by NLC that the reclassification of broadband internet access service (BIAS) as a telecommunications service must not preempt local governments' ability to exercise its authority to manage the use our local public rights-of-way by overseeing the safety, placement, construction modification of BIAS providers' facilities and to receive reasonable compensation from BIAS providers for that use.

Additional Concerns

NATOA calls on the FCC to re-visit and overturn its 2018 Small Cell preemption order and, until then, forbear the application of Sections 253 and 332(c) regarding state and local authority over communications networks to reclassified BIAS services.

Section 253(c) of the Communications Act protects local governments' authority to manage and receive fair and reasonable compensation for BIAS providers' use of local rights-of-the-way. And Section 332(c)(7)(A) of the Act protects local governments' authority to regulate the placement, construction and modification of BIAS providers' wireless facilities, consistent with Section 332(c)(7)(B). As such, these Sections protect local governments' authority to manage use of our public local rights-of-the-way.

Cities, towns and counties are working in partnership with the Commission and look forward to continuing to do so as broadband buildouts commence across the country funded by the Broadband Equity, Access, and Deployment (BEAD) Program's $42.45 billion to expand high-speed internet access by funding planning, infrastructure deployment and adoption programs in all 50 states and four territories. This unique opportunity through the Infrastructure Investment and Jobs Act (IIJA) to extend broadband ubiquitously across the country can be

[9] Comments of the National League of Cities and the National Association of Telecommunications Officers and Advisors In the Matter of Protecting and Promoting the Open Internet, GN 14-28, July 11, 2014. https://www.fcc.gov/ecfs/document/6017880923/1

achieve more effectively by working collaboratively with local governments, the level of government closest to the residents we all serve.

NATOA urges the Commission to forbear the application of Sections 253 and 332(c) to reclassify BIAS services at this time to ensure Internet Openness; Safeguard National Security and Preserve Public Safety; Protect Consumers' Privacy and Data Security; Support Access to Broadband Internet Access Service (BIAS); and Access for Persons with Disabilities.

State and local governments can deliver responsive consumer protections, public safety, access for all, and siting supervision of providers' physical facilities because local governments are adept at resolving the discrete issues that arise from local conditions and circumstances. As such, in any Preemption of State and Local Regulation of Broadband Service by the Commission, we urge the Commission to "proceed more incrementally, such as by only addressing in this proceeding those state or local legal requirements squarely raised in the record, and otherwise deferring to future case-by-case adjudications of preemption." Further, we believe this approach acknowledges the roles of state and local government in regulating provider services and facilities.

Similarly, Congress preserved states' powers to impose "requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services and safeguard the rights of consumers."[10]

Conclusion

In closing, we share **NATOA's Communications Policy Principles** developed in the midst of COVID to address the development of Federal Communications Policy in 2021, the 25th anniversary of the Telecommunications Act, and to address the Critical Role of Local Communities. The NATOA principles note that "One of the primary objectives for communications policymakers, at all levels of government, is ensuring that everyone has access to vital communications services and the opportunity to benefit from advances in communications technology.

"Local governments, as the governments closest to our constituents, are in the best position to understand where and why public and private sector efforts to achieve this goal have fallen short. We manage vital public assets, including public rights-of-way, on which communications providers rely to deploy their networks. In short, local governments are essential partners in

[10] 47 U.S.C. § 253(b); see also Merck Sharp & Dohme Corp. v. Albrecht, 139 S. Ct. 1668, 1677 (2019).

the common goal of deploying robust communications infrastructure and making affordable and quality communications services available to everyone.

"Federal communications policies should recognize and reflect local governments' role in the effort to achieve digital equity and should incentivize innovative deployment models, including novel partnerships—policies that cannot coexist with current policies that sharply curtail local authority.[11]

We encourage the Commission to refrain from broad preemption but rather, the Commission should seek to resolve any potential preemption issues arising from reclassification only on an incremental, case-by-case basis.

Thank you for your consideration of these Reply Comments. We look forward to partnering with the FCC to further policies to make sure that the internet is not only open, but fast and fair, safe and secure.

If you have any questions about these comments, please contact me.

Sincerely,

Mike Lynch
Legislative & Regulatory Affairs Director
National Association of Telecommunications Officers and Advisors (NATOA)
3213 Duke Street, #695
Alexandria, VA 22314
(703) 519-8035
MLynch@natoa.org

ATT: #1. NATOA's 2008 Broadband Principles
#2. NATOA's 2021 Federal Communications Policy: The Critical Role of Local Communities

[11] NATOA Federal Communications Policy: The Critical Role of Local Communities, 2021, Attachment #2

Introduction to NATOA's Broadband Principles

For centuries, the United States has been a world leader in economic development and social initiatives. From the 19th century railroad systems and the early 20th century electric and telephone networks' expansion, to the post-World War II highway system and airport construction, investments in physical infrastructure have been instrumental in supporting social and economic progress.

Today, the United States is at a critical juncture. Economic and social development increasingly depend on advanced communications infrastructure. However, there is no strategy in place for widespread deployment of next-generation broadband networks. Our failure to take immediate action threatens to relegate our country to second-class status in the broadband age.

The future of broadband is about more than viewing television, surfing the Web and making phone calls. It is about new forms of communication and mass collaboration through the virtually unlimited potential for sharing information, storage capacity, processing power and software made possible through high-capacity bandwidth connections. This collaboration will generate new ideas, accelerate economic development and lead to opportunities for wealth creation, social development and personal expression.

While other industrialized nations have developed strategies for next-generation broadband infrastructure, the United States still lacks a national broadband strategy. The lack of a proactive strategy has effectively ceded control of our broadband destiny solely to the private market without sufficient regard for the public interest or the unique needs of local communities. This approach has not resulted in the investment needed and has failed to realize the many positive externalities created by next-generation broadband networks. The effects of this failure are clearly manifest: fading international rankings for broadband penetration; relatively low bandwidth at high costs; throttling of peer-to-peer communications; and little competition among service providers. Moreover, the future contours of broadband in the U.S. are being defined by a small number of private entities.

NATOA is increasingly concerned that the communities we represent are losing their competitive advantage to communities in Europe and Asia due to the lack of federal and state broadband leadership. This inaction will likely harm the competitive status of local communities with respect to education, healthcare, economic development, standard of living, and the level and quality of civic discourse. Inaction will adversely affect local governments' ability to provide public safety or to create a more sustainable environment for the future.

Local governments have always played an essential role in ensuring that the benefits of communications infrastructure would be available in communities across the United States. Localities will, by necessity and by choice, be part of the solution to our national broadband deficit. To that end, NATOA has adopted its Broadband Principles.

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BROADBAND PRINCIPLES

The National Association of Telecommunications Officers and Advisors (NATOA) supports the development of a National Broadband Strategy consistent with the following principles.

1. NATOA calls for the immediate nationwide deployment of advanced broadband networks.

The United States faces a broadband crisis. Broadband network infrastructure is critical to economic growth. New and emerging applications and services demand more bandwidth than can be delivered by most current domestic networks. The gap between the United States and other industrialized nations is growing wider. Our country is becoming a digital also-ran with serious adverse consequences to our economic competitiveness and quality of life.

The United States has a proud history of deploying electric, telephone and transportation infrastructure to all parts of the country. Now we are challenged again. We are behind and the buildout of advanced broadband networks will take time. We must act now!

2. True broadband requires high capacity bandwidth in both directions.

To grow and enhance economic opportunity, local communities must have access to interactive, open, broadband networks with sufficient capacity to meet the increasing information, communications and entertainment needs of their residents, businesses, institutions and local governments. US competitors in Europe and Asia are building broadband networks that can provide bandwidth of 100 Mbps to 1 Gbps to each premise. Those networks serve as platforms for continuing innovation and allow the delivery of new services and applications that will transform these nations' economies and enhance the quality of life. To remain globally competitive, networks in this country should meet or exceed those standards and be designed so that capacity can be expanded by replacing electronics without having to rebuild the networks.

It is important for America's networks to offer symmetrical, high capacity bandwidth in both directions, as with many of the new networks in Europe and Asia. Ample upstream bandwidth empowers network users to become creators and distributors of content and applications, as well as recipients of services. NATOA believes that the success of Web sites featuring user-provided content, as well as the successes of traditional educational, government and public access television, demonstrate that people can and will become content creators if they are afforded the tools to do so.

3. Fiber to the premises is the preferred broadband option.

Broadband networks use several wire-based and wireless technologies, including: copper and other metal wires; coaxial cable, multimode fiber optics; single-mode fiber optics;

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microwaves; Wi-Fi; and WiMax. The transmission bandwidth and reliability characteristics and capabilities of each technology vary based upon many factors, including: the specific technology; the transmission distance and the connecting and terminal equipment being used. Currently, single-mode fiber optic networks are capable of transmitting the most bandwidth with the highest reliability. They show the best potential to handle increasing future demands for higher speeds and greater quantities of information.

NATOA recognizes that it will not be economically feasible to bring fiber optics to all communities in the near term. Where fiber connection is not practical, other technologies, such as high capacity coaxial cable or wireless, may be viable if they achieve the bandwidth levels described above. In the long run however, the goal should be to make fiber to the premises universally available.

Wireless networks are an important part of the broadband picture. Wireless allows mobility, and offers a competitive choice for Internet access with quick and relatively low cost deployment. Wireless will not be a substitute for an all fiber network but will play a complementary role.

4. High capacity broadband connectivity must be affordable and widely accessible.

An informed citizenry requires knowledge and opportunities for expression. NATOA believes that everyone should be able to access the information and services that high capacity broadband networks will provide. Without reasonable prices and equitable access many of our citizens will not be active participants in the broadband age. Our residents and our society will benefit from wide availability, since the communicative power of the network increases exponentially as more network endpoints are created. High capacity broadband networks can bring to bear the collective ingenuity and enterprise of our citizens to find solutions to the many problems confronting us. NATOA believes that everyone should have access to high capacity networks at reasonable prices.

5. High capacity broadband requires open access networks.

Fiber optic networks continue to demonstrate economies of scale. This characteristic gives the owner of the fiber platform an unbeatable advantage over other service providers. It is expensive – perhaps prohibitively so - to build multiple fiber networks in one community. Thus the owner of the first and therefore dominant network can set unfair terms and prices for others to use it. On the other hand, multiple service providers who can compete over a common platform will fuel innovation in broadband services, which will benefit local communities and society. Thus structural or regulatory measures must be employed to protect the right to non-discriminatory access to networks for all competing service providers and to forestall unfair business practices by network owners. NATOA recognizes that private developers of new fiber networks must be able to seek a realistic return on investment. This is consistent, however, with providing access on non-discriminatory terms.

6. Network neutrality is vital to the future of the Internet.

It is vital to the future of the Internet that network owners not discriminate in terms of content transport or unnecessarily interfere in communications between end points on the network. Where packet prioritization is necessary network owners must provide similar treatment to all providers of like services. NATOA believes that everyone must have the unabridged freedom to create, post or access any lawful content and services and to attach any devices to the network as long as they do not impair network performance. Many current network traffic management strategies are a function of scarce bandwidth capacity and should not be necessary with high-capacity networks.

7. All networks and users have the right and obligation to non –discriminatory interconnection.

Broadband communications at the local access level can be fast and economical. However, data packets that leave the local access network and traverse the public Internet will flow only as fast as the slowest connections between end points. To facilitate reliable, high-bandwidth, symmetrical, peer-to-peer communications between our communities and to promote the expansion of open access networks, NATOA supports the direct linkage of local broadband fiber network peering points through the use of long haul fiber. All local broadband networks must have the right and obligation to non-discriminatory interconnection with other broadband networks using common, interoperable standards and protocols.

8. Local governments must be involved to ensure that local needs and interests are met.

The desired development of high capacity broadband networks and broadband services will require extensive collaboration among all parties: local communities, regions, state governments, national government, the private sector, interest groups and others. While the U.S. has plenty of broadband capacity in the "long haul" routes, fiber connections rarely reach homes and small businesses. Local governments are central players in ensuring that this "last mile" fiber connection to homes and businesses is achieved. Local elected officials are well positioned to evaluate the infrastructure and economic development tools needed to sustain viability, encourage growth and ensure that the unique needs and specific interests of local communities are addressed. NATOA believes local governments must be recognized as key partners to industry and the states and federal government in broadband development.

9. Local governments must be allowed to build and operate broadband networks.

Local geographic communities share common interests and offer the best opportunity for acceptance and growth of high capacity broadband. The right of local governments to build and operate broadband networks must not be infringed. Public agencies and community-based non-government agencies also need to have equal opportunity to participate through

meaningful investments in communications infrastructure. Communities must have the freedom to meet their unique communications needs. NATOA believes that local governments and the communities they serve must be able to preserve the policy option to own and operate public broadband networks. Any existing prohibitions on local government communications initiatives must be abolished.

10. A variety of options must be considered to cover deployment costs.

It is not yet clear which methods of funding deployment are best. Different methods may be preferable in different communities. For example, networks may be financed by private investment, by government investment, by public-private partnerships, by tax incentives, or by other means. None of these approaches should be prohibited by law or burdened by special restrictions (such as laws that forbid cross-subsidy by governments but allow it for private entities).

Federal Communications Policy: The Critical Role of Local Communities

One of the primary objectives for communications policymakers, at all levels of government, is ensuring that everyone has access to vital communications services and the opportunity to benefit from advances in communications technology. Local governments, being closest to our constituents, are in the best position to understand where and why public and private sector efforts to achieve this goal have fallen short. We also manage vital public assets, including public rights-of-way, on which communications providers rely to deploy their networks. In short, local governments are essential partners in the common goal of deploying robust communications infrastructure and making affordable and quality communications services available to everyone.

Yet the nation's communications policies have sidelined local governments. We are labeled barriers to deployment while private industry is granted unprecedented access and ability to dictate when and how they will use public assets with little or no obligation to serve the best interests of the public.

The COVID-19 pandemic has provided a long overdue wakeup call that these policies have not worked. Nothing illustrates this more than the failure to reach those who still lack access to quality, affordable broadband that, now more than ever, is essential for full participation in every aspect of our lives and our communities. Twenty-five years after the Telecom Act, the pandemic has highlighted our country's failure to provide broadband to our most vulnerable urban and rural citizens.

The pandemic has also shown that local governments remain the most effective level of government in responding to community needs. Local governments have been vital in ensuring that, throughout the pandemic, residents have the best possible access to schools, housing, food, healthcare, transportation, economic opportunities, water and sewer services, refuse collection and other essential services, including broadband. Local governments in turn rely on broadband to deliver services to residents, promote civic engagement and create economic opportunities, all of which are integral in local efforts to address racial and economic inequities.

Federal communications policies should recognize and reflect local governments' role in the effort to achieve digital equity and should incentivize innovative deployment models, including novel partnerships—policies that cannot coexist with current policies that sharply curtail local authority. To that end, NATOA has identified key principles that should guide federal communications policies that directly impact local governments and communities.

Principle 1— Respect Local Government as Partners in Achieving Digital Equity

Closing the digital divide, which must include fostering digital equity and inclusion, is one of the keys to addressing the most pressing issues we face as a nation, from economic and racial injustice to the COVID-19 pandemic. Policies to address digital equity, like all communications policies, implicate intensely local interests in deciding how best to address community needs, ensure public safety and order competing demands on public resources and assets. Policymakers should respect local governments' essential role in addressing these interests and expanding availability and adoption of broadband and other communications services. Limiting local authority to address local communications needs—portraying local governments as impediments rather than partners—undermines the prospects for developing innovative solutions to difficult issues and hinders efforts to achieve digital equity.

Principle 2— Support Localism and Diversity of Voices

The tradition of community media has helped ensure a rich and diverse media landscape in which individuals and small groups can communicate effectively and take part in the national, regional and local debates that shape the character of our communities and our nation—principles echoed by Congress in the Cable Act. The ongoing value of community media has been in full view during the COVID-19 pandemic. Community media stood out as a reliable source for accurate, up-to-date information, particularly in the many communities across the country that no longer have other outlets for truly local news and information. During the pandemic, community media, especially government media, became the foundation for the emergency adoption of remote public meetings with expanded opportunities for interactive civic engagement. The Cable Act, from its inception, has been viewed by all stakeholders as affirming the value of community media, a communications outlet that is vital to the continuing health of our communities and our democracy. Federal communications policies should reflect this long-standing support for and protection of community media.

Principle 3— Restore and Protect Local Rights-of-Way, Zoning and Siting Authority

Sound communications policy must recognize and support local governments' authority to manage the public rights-of-way and other public property. This includes maintaining zoning and related land use authority. The public rights-of-way are narrow ribbons of real estate in which many companies across many industries install their facilities. Only local governments can balance the many competing interests in a manner that protects public safety and maintains critical services, including communications services. Federal policies should, consistent with our dual-federalist system, reflect the fact that local elected officials are held accountable for upholding this distinctly local obligation, and as such we are experts in finding the right balance that enables timely deployment of infrastructure while respecting the unique character and interests of our communities. Communications providers should not be exempt from local regulations that protect public safety, property, community character and economic development to which other industries must adhere, including paying reasonable compensation for the use of public property.

Principle 4— Elevate the Public Interest

A touchstone of communications policy is protecting the public interest. Efforts to facilitate deployment will always fall short if the public interest does not weigh heavily in the balance of competing interests inherent in communications policy considerations. That deployment is occurring says nothing about whether any resulting services meet consumers' needs, are affordable or are available to all residents of a community. Effective consumer protection standards with reasonable, accessible recourse must be available. Public safety implications must be appropriately addressed at every step of policymaking to avoid potentially irreversible harm from unintended effects. The COVID-19 pandemic demonstrated that the public interest in providing residents with access to education, employment, healthcare and other government services depends on access to robust digital communications. Current policies that fail to adequately address the public interest, including public safety, should be revisited, and future policymaking should directly address the public interest implications of any new initiatives.

NATOA is eager to work with all stakeholders to advance communications policies that ensure deployment of robust and affordable communications services to all Americans, with local governments as steadfast partners in this essential endeavor.

OFFICE OF THE CHAIRWOMAN

FACT SHEET: *FCC Chairwoman Rosenworcel Proposes to Restore Net Neutrality Rules*

Proposes to Re-Establish FCC's Authority Over Broadband Providers Under Title II

"In the wake of the pandemic and the generational investment in internet access, we have a window to update our policies to make sure that the internet is not only open, but fast and fair, safe and secure. I am committed to seizing this opportunity. Now is the time for our rules of the road for internet service providers to reflect the reality that internet access is a necessity for daily life. Let's get to it."
– FCC Chairwoman Jessica Rosenworcel.

FACT SHEET

Overview

The internet is too important to our society and economy not to have effective oversight. However, in 2018, the FCC abdicated its authority over broadband and repealed net neutrality. Today, FCC Chairwoman Jessica Rosenworcel shared with her colleagues a proposal that would begin the process of re-establishing the FCC's oversight over broadband and restoring uniform, nationwide net neutrality rules, which would allow the FCC to protect internet openness and consumers, defend national security, and advance public safety.

What is being proposed

The Chairwoman is proposing the FCC take the first procedural steps toward reaffirming rules that would treat broadband internet service as an essential service for American life. As work, healthcare, education, commerce, and so much more have moved online, no American household or business should need to function without reliable internet service. This was especially true during the pandemic. Such rules would affirm—under Title II of the Communications Act—that broadband service is on par with water, power, and phone service; that is: essential.

The proposed rules would return fixed and mobile broadband service to its status as an essential "telecommunications" service. The proposal will be made public and will allow for public input. The proposal seeks to largely return to the successful rules the Commission adopted in 2015.

How It Helps Consumers

- **Openness –** Establish basic rules for Internet Service Providers that prevent them from blocking legal content, throttling your speeds, and creating fast lanes that favor those who can pay for access.
- **Security** – Reclassify broadband internet access to give the FCC and its national security partners the tools needed to defend our networks from potential security threats.
- **Safety –** Allow the FCC to enhance the resiliency of broadband networks and bolster efforts to require providers to notify the FCC and consumers of internet outages.
- **Nationwide Standard** – Establish a uniform national standard rather than a patchwork of state-by-state approaches, benefiting consumers and Internet Service Providers.

Facts

- Since the adoption of a policy statement in 2005 affirming net neutrality principles until 2018, it was the clear policy of the FCC across administrations that it would enforce open Internet standards.
- Without this authority, no federal agency can effectively monitor or help with broadband outages that threaten jobs, health, education, and safety.
- Open internet policies protect Americans' freedom and their speech, only enshrining limits on broadband companies' ability to limit consumer and business activities.
- The rulemaking specifically proposes to forbear from 26 provisions of Title II and more than 700 Commission rules that might pose a threat to network investment or are unnecessarily burdensome. Accordingly, policies like rate regulation and network unbundling would be strictly prohibited.

Background

- 2004: President Bush's first FCC Chair challenged the broadband network industry to preserve "Internet Freedoms."
- 2005: FCC issues Policy Statement affirming open internet principles.
- 2008: President Bush's second FCC Chair tried to enforce these principles when Comcast "unduly squelche(d) the dynamic benefits of an open and accessible Internet."
- 2010: The D.C. Circuit vacated the Comcast enforcement action, saying the FCC lacked legal jurisdiction.
- 2010: FCC adopts compromise net neutrality rules "rooted in ideas first articulated" by the prior Chairs.
- 2014: D.C. Circuit overturns the 2010 rules in *Verizon v. FCC* on grounds that the rules were only grounded in authority granted by Section 706 of the Act and not also Title II.
- 2015: FCC adopts rules enshrining the open internet principles under Title II.
- 2016: D.C. Circuit affirms the 2015 rules in their entirety.
- 2018: After a change in administration, FCC abdicates open internet rules and authority over the internet entirely.
- 2019: D.C. Circuit allows abdication to move forward but overturns the FCC's attempted preemption of state open internet rules, and criticizes its treatment issues including public safety.
- 2020: California's net neutrality law goes into effect, and along with other state laws and orders, broadband providers must comply with a patchwork of state regulations.
- 2023: Chairwoman Jessica Rosenworcel proposes to reclassify broadband under Title II and reintroduce uniform, nationwide open internet rules.

Process

The Chairwoman shared with her colleagues a Notice of Proposed Rulemaking. If adopted by a vote of the full Commission at its monthly meeting on October 19, 2023, the agency will begin a new rulemaking to take public comment and reply comments on the proposal. Any person or organization can file comments and see others' comments at https://www.fcc.gov/ecfs. After a review of that public record, the Chairwoman can decide whether and how to proceed, including adopting final rules which would also require a majority vote of the bipartisan FCC.

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April 10, 2024

The Future of the Last Mile

3 Comments

The last two blogs in this series looked at the broadband demand for speed and usage. The first blog predicted that demand in 25 years for broadband speeds could be as much as 100 times more than today's definition of broadband of 100 Mbps download. The second blog predicted that demand for broadband usage in 25-years could conservatively be 12 to 15 times more than today, and could be a lot more.

Today's blog looks at what that kind of future demand means for last mile technologies. The fastest broadband technology today is fiber, and the most common fiber technology is passive optical network (PON). This technology brings broadband to local clusters of customers. The original PON technology deployed in the early 2000s was BPON, which had the capability to deliver 622 megabits of speed to share in a cluster of 32 homes.

The next PON technology, introduced widely around 2010, was GPON. This technology uses faster lasers that deliver 2.4 gigabits of speed to share in a cluster of 32 homes. The industry has pivoted in the last few years to XGS-PON, which can deliver 10 gigabits of bandwidth to a neighborhood cluster of homes. Vendors are already working on a PON technology that will deliver 40 gigabytes to a cluster of homes. Cable Labs is working on a PON technology they have labeled as CPON that will deliver 100 gigabits of speed to a cluster of homes.

Consider the following table that shows the increase in last-mile fiber bandwidth that comes with PON technologies:

	Capacity in Gbps	Growth Over GPON
GPON	2.4	
XGS-PON	10	4.2 X
40G PON	40	16.7 X
CPON	100	41.7 X

XGS-PON is a great upgrade, but has only 4 times the capacity of GPON. XGS-PON is not going to satisfy broadband needs in 25 years when demand is at least 12 to 15 times greater than today. By then, fiber ISPs will likely have upgraded to 40G PON, which has over 16 times the capacity of GPON. There will be a lot of talk in 25 years of upgrading to something like CPON, with a capacity of over 40 times that of GPON.

Something that cable executives all know but don't want to say out loud is that cable networks will not be able to keep up with expected future demand over 25 years. The planned upgrade to DOCSIS 4.0 brings cable company technology close to the capability of XGS-PON. DOCSIS 4.0 will allow for multi-gigabit speeds over coax, but there is no planned or likely upgrade for coax to match the capabilities of 40G PON.

Any discussions about boosting the future capacity of cable networks is moot anyway. Most coaxial networks were built between the 1970s and 1990s, and in 25 years the copper will be between 60 and 80 years old. There is no question that the coaxial copper will be past its useful life by then.

A few cable companies have already acknowledged this reality. Altice announced a transition to fiber years ago but doesn't seem to have the financial strength to complete the upgrades. Cox has quietly started to upgrade its largest markets to fiber. All big cable companies are using fiber for expansion. By 25 years from now, all cable companies will have made the transition to fiber. Executives at the other big cable companies all know this, but in a world that concentrates on quarterly earnings, they are in no rush to tell their shareholders about the eventual costly need for an expensive infrastructure upgrade.

There is no possibility for wireless technology to keep up with the increased demand that will be expected in 25 years. The only way to increase wireless speeds and capacity would be to

CCG CONSULTING

DOUG DAWSON, PRESIDENT

CONTACT DOUG DAWSON

(202) 255-7689
blackbean2@ccgcomm.com

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greatly increase the size of wireless channels – which the FCC is unlikely to do – or use much higher frequencies. We've already learned that millimeter-wave and higher frequencies can deliver much faster speed, but don't play well in an outdoor environment in an end-to-end wireless network. This doesn't mean that wireless ISPs won't be delivering broadband for decades to come – but over time, wireless last-mile technologies will fall behind fiber in the same way that DSL slowly fell behind cable modems.

Unless satellite technology finds a way to get a lot faster, it won't be a technology of choice except for folks in remote areas.

Mobile data is always going to be vital, but there will be major pressure on wireless companies to finally deliver on the promises of 5G to keep up with future demand for speed and bandwidth.

Posted by Doug Dawson, CCG Consulting in Technology, The Industry

Tagged: 40G PON, 5G, CPON, DOCSIS 4.0, GPON, millimeter wave spectrum, XGS-PON

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April 19, 2024

Cord Cutting Continues in 2023

1 Comment

Leichtman Research Group recently released the cable customer counts for the largest providers of traditional cable service at the end of 2023. LRG compiles most of these numbers from the statistics provided to stockholders, except for Cox and Mediacom – they now combine an estimate for both companies. Leichtman says this group of companies represents 96% of all traditional U.S. cable customers.

I suspect there are regular blog readers who wonder why I post these statistics every quarter. There are several reasons.

- I find it fascinating to watch the slow train wreck of the implosion of the cable TV industry. Recall that the big cable companies like Comcast and Charter got so large through selling only cable TV and no other products. Technology let them compete and then beat telcos for broadband customers, but they already had a huge number of customers in 2000 when broadband competition kicked off in earnest.
- I'm fascinated to see that there are still over 55 million household buying cable TV from the largest companies. A lot of folks have completely written off cable TV as irrelevant, and a thing of the past, but 42% of households are still buying a traditional cable TV package. Roughly 30 million homes have cut the cord since 2018, but there are still 55 million more homes that might someday migrate all of their video to broadband networks.

The traditional cable providers continue to lose customers at a torrid pace, losing 1.7 million customers in the third quarter. Overall, traditional cable providers lost over 18,700 customers every day during the quarter. The overall penetration of traditional cable TV is now down to 42% of all households, down from 73% at the end of 2017.

	4Q 2022	4Q Change	% 4Q Change	Annual Change	% Annual Change
Charter	14,122,000	(257,000)	-1.8%	(1,025,000)	-6.8%
Comcast	14,106,000	(389,000)	-2.7%	(2,036,000)	-12.6%
DirecTV	11,300,000	(550,000)	-4.6%	(1,800,000)	-13.7%
Dish TV	6,471,000	(249,000)	-3.7%	(945,000)	-12.7%
Cox	3,140,000	(100,000)	-3.1%	(420,000)	-11.8%
Verizon	3,012,000	(64,000)	-2.1%	(289,000)	-8.8%
Altice	2,262,000	(64,500)	-2.8%	(274,300)	-10.8%
Breezeline	280,145	(8,736)	-3.0%	(29,482)	-9.5%
Frontier	234,000	(14,000)	-5.6%	(72,000)	-23.5%
Cable ONE	142,300	(6,600)	-4.4%	(39,200)	-21.6%
Total	55,069,445	(1,702,836)	-3.0%	(6,929,982)	-11.2%
YouTube	7,900,000	1,400,000	21.5%	1,900,000	31.7%
Hulu Live	4,600,000	0	0.0%	100,000	2.2%
Sling TV	2,055,000	(65,000)	-3.1%	(279,000)	-12.0%
FuboTV	1,618,000	141,000	9.5%	173,000	12.0%
Total Cable	34,052,445	(825,836)	-2.4%	(3,823,982)	-10.1%
Total Other	21,017,000	(877,000)	-4.0%	(3,106,000)	-12.9%
Total Online	16,173,000	1,476,000	10.0%	1,894,000	13.3%

In the fourth quarter, Comcast dropped from being the large cable provider and fell below Charter. Losses were big across the board, and only Charter, Verizon, and Breezeline lost less than 10% of the cable customer base for the year. The traditional cable providers lost over 6.9 million cable customers for the year – with only a fourth of those customers choosing an online cable substitute.

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DOUG DAWSON, PRESIDENT

CONTACT DOUG DAWSON

(202) 255-7689
blackbean2@ccgcomm.com

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In the fourth quarter, online cable substitutes like YouTube and Hulu Live picked up 1,476,000 customers, almost all by YouTube. For the year, these providers added almost 1.9 million customers.

Posted by Doug Dawson, CCG Consulting in The Industry

Tagged: Cable TV, Charter, Comcast, Leichtman Research Group

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One thought on "Cord Cutting Continues in 2023"

David Good
April 19, 2024 at 8:30 am

I've been involved in the cable industry for my entire 30+ year career. The decline of the industry is no great surprise to anyone closely associated with it however the slow pace at which it's declining might be. Cord cutters say "how could 55 millions households still be paying the ridiculous prices cable companies charge?" There's no one answer but my experience shows it's largely my generation and older. It's a classic case of "old dog, new tricks" or "fear of the unknown". I am a recent cord cutter and even though I fashion myself technology savvy the experience of moving from "flicking through channels" to navigating apps was a harder adjustment then I thought it would be. And my wife?...she's in the habit of just tossing the remote at me out of frustration...The decline of cable will be expedited as the younger generations age up.

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