



November 16, 2018 - Public Issue

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## KEY DEVELOPMENTS

### **ACA Calls On DOJ To Open Antitrust Investigation Of Comcast-NBCU**



**Donald J. Trump** @realDonaldTrump · 40m

American Cable Association has big problems with Comcast. They say that Comcast routinely violates Antitrust Laws. "These guys are acting much worse, and have much more potential for damage to consumers, than anything AT&T-Time Warner would do." Charlie Gasparino

3.3K

4.5K



15K



To help secure the benefits of a competitive pay-TV and broadband market for millions of consumers, the American Cable Association has asked antitrust law enforcers at the Department of Justice (DOJ) to open an investigation into the business practices of the vertically integrated media giant Comcast-NBCU, focusing on harms stemming from the dominant communications firm's control of cable systems, TV stations, and regional sports networks (RSNs) concentrated in some of the largest local markets in the country.

Until earlier this year, both the DOJ and the Federal Communications Commission (FCC) oversaw numerous requirements they had imposed on Comcast-NBCU in 2011 that were designed to rein in the firm's anticompetitive activities. Now, with Comcast-NBCU "unleashed," the firm can act with impunity, harming consumers and rivals.

ACA's request came in a Nov. 6 letter to Makan Delrahim, DOJ's Assistant Attorney General for Antitrust. In the letter, ACA and its members pledged to cooperate fully to assist in the investigation, including by providing information about Comcast-NBCU's practices.

"By opening a formal investigation, the DOJ, which has already put Comcast-NBCU on notice, can take the next step to gather facts about the company's activities and ensure consumers and competition are protected. Given the enormity of Comcast-NBCU's market presence and incentive to engage in anticompetitive harm, such an investigation is fully warranted," ACA President and CEO Matthew M. Polka said. [Read more.](#)

## ACA Applauds FCC's Media Bureau For Granting Two Narrowly Tailored Waivers For Small and Mid-Sized Cable Systems From The Accessible User Interfaces Rules

American Cable Association President and CEO Matthew M. Polka issued the following statement on Nov. 5 after the Federal Communications Commission's Media Bureau granted ACA's requests for targeted waivers for small and mid-sized cable systems from the Accessible User Interfaces Rules adopted pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA):



"ACA applauds the Media Bureau's decision to grant ACA's requests for waivers. Many small and mid-sized cable systems are ready to offer compliant accessible user interfaces to their blind and visually impaired customers in December. However, for a few classes of systems, the cost to comply fully is too great. The Bureau's waivers address this reality by permitting most of these systems to offer near fully compliant solutions and giving exemptions to the rest.

"The waivers were narrowly tailored to balance the needs of blind and visually impaired video subscribers against the practical realities of the existing marketplace for accessible solutions. In granting ACA's petition, the Media Bureau ensures that the greatest possible number of blind and visually impaired consumers can obtain audible access to video functions, like those necessary to provide linear video programming and the electronic program guide and to configure other accessibility features like closed captioning and video description." [Read more.](#)

Nov. 2, 2018: [FCC's Memorandum Opinion And Order](#)

## ACA Will Continue Legal Effort To Defend Internet Freedom



American Cable Association President and CEO Matthew M. Polka issued the following statement on Nov. 5 on the U.S. Supreme Court's decision not to hear the case challenging Federal Communications Commission (FCC) rules adopted in 2015 under Chairman Tom Wheeler that classified broadband Internet Service Providers (ISPs) as common carriers:

"Today, the Supreme Court decided to pass on rehearing a D.C. Circuit decision about an ill-designed FCC regulation that has since been replaced by the pro-market, pro-consumer Restoring Internet

Freedom (RIF) order. The Supreme Court's decision was not unexpected. The FCC's RIF order found the proper balance between promoting innovation and investment in the U.S. broadband market and ensuring an open Internet. ACA will continue with its efforts to defend the RIF order in federal court and fight impermissible interference with the national regime by the states."

## ACA Urges FCC To Reject Utilities' Effort To Weaken New Pole Attachment Rules



In a Nov. 9 filing, the American Cable Association told the Federal Communications Commission it must reject an attempt by the Coalition of Concerned Utilities (a group of electric utilities) (CCU) to weaken the agency's new pole attachment rules.

"The FCC proceeded transparently and reasonably in adopting the Pole Attachment Order. It received lengthy submissions from the CCU, other utilities, and a wide variety of other stakeholders and held numerous meetings with them. It reached well-reasoned decisions that serve the public interest by removing barriers to broadband deployment. The CCU's Petition fails to meet any of the FCC's criteria for reconsideration. Not liking the rules that the FCC adopted is simply not enough," ACA President and CEO Matthew M. Polka said.

The FCC's new rules were adopted after an 18-month process, where the CCU and other electric utilities, along with other stakeholders, raised their concerns and made their proposals. The FCC decision accounted for all of these comments and is a model of reasoned decision-making, fairly balancing the many competing claims, according to ACA. [Read more.](#)

## ACA: U.S. Should Adopt A National Privacy And Data Security Policy That Applies To All Industry Sectors In All Jurisdictions

In response to the Administration's effort to consider developing additional measures to protect online privacy and data security, the American Cable Association is urging policymakers to develop a policy that is national in scope, applying uniformly across all jurisdictions, and that includes all industry sectors, making it competitively and technology-neutral.

Additionally, ACA explained that smaller Internet Service Providers (ISPs) already are subject to existing privacy and data security requirements and lack the ability, or even interest, in monetizing their subscribers' information. As a result, unlike Internet Providers whose business model depends on collecting and using consumer data, smaller ISPs pose little threat to misusing subscriber information. Accordingly, smaller ISPs should not be subject to additional requirements.



"ACA supports the development of a national privacy policy for ISPs that accounts for the unique characteristics of smaller providers and their customers. Any such policy should follow a risk-based approach and be competitively and technology-neutral. In addition, it should apply uniformly in all jurisdictions in the U.S. so that consumers can understand and act on their rights regardless of the entity accessing their personal information and so that businesses have greater certainty and lower compliance burdens," ACA President and CEO Matthew M. Polka said. [Read more.](#)

ACA FILING 11/9 [NTIA Comments re Developing the Administration's Approach to Consumer Privacy](#)

## Sens. Moran And Udall Express Concerns With FCC's NPRM On Expanded Operations In C-Band Spectrum



Sens. Jerry Moran (R-Kan.) and Tom Udall (D-N.M.) on Nov. 13 sent a [letter](#) to the Federal Communications Commission expressing concerns regarding the FCC's Notice of Proposed Rulemaking examining expanded operations in the C-band, a swath of spectrum used by content producers every day to deliver news, sports and other popular content for their broadcasts.

The following statement can be attributed to the American Cable Association, the National Association of Broadcasters, NCTA - The Internet & Television Association, and National Public Radio regarding the letter:

"NAB, NCTA, ACA and NPR thank Senators Jerry Moran (R-Kan.) and Tom Udall (D-N.M.) for their leadership on this critical issue of spectrum management, recognizing the importance of protecting existing C-band users as Congress and the FCC consider changes to the C-Band.

"Sens. Moran and Udall correctly recognize that more than 100 million Americans rely on C-band spectrum to receive the most popular news, entertainment and sports content on TV and radio. As new bands of airwaves for wireless services are considered, it is critically important that any changes to the C-Band spectrum fully protect incumbent users and consumers from harmful interference and service loss or interruptions."

## ACA SUMMIT 2019

**And the #Summit26 Keynote Is...**

ACA has secured an A-list speaker to headline #Summit26! He was named one of the *Time* magazine's most 100 influential people and one of *Business Week's* top research minds. We'll reveal the keynote when we open online registration this month. Follow us on Twitter at [@ACASummit](#) to be among the first to hear the latest Summit news!

American Cable Association  
**Summit26**  
Washington, D.C. | March 19-21, 2019

## ACA PODCAST

### **Cable Talk - Episode 12 (Mark L. DiNapoli)**

In the latest [episode](#) of Cable Talk, host **Matthew M. Polka**, who is ACA's President and CEO, sits down for a discussion with **Mark DiNapoli**, **Assistant Chief of the U.S Copyright Office**.

to listen.

The interview, which focused on the successful effort to promote the electronic filing of cable operators' statement of accounts, was recorded at the Disneyland Hotel during the 13th Independent Show in late July. It runs about 10 minutes. Click [here](#) to listen.

Cable Talk is a podcast for ACA members that features news makers in the communications sector willing to discuss and debate issues critical to American Cable Association members.

**Previous Cable Talk guest include:**

**Oct. 17** [Patrice Carroll, ImOn Communications CEO](#)

**Sept. 17** [Evan Swarztrauber, Media Policy Advisor To FCC Commissioner Brendan Carr](#)



## ACA FILINGS

ACA has been actively representing independent cable in many other ways and on many issues in Washington, D.C. Those efforts are described in the filings, letters, and testimonies linked below for your review:

- 11/13 [FCC Ex Parte re Advanceds Methods to Target and Eliminate Unlawful Robocalls w/ Office of Chairman and both OSP and CGB](#)
- 11/8 [FCC Ex Parte re Electronic Delivery of MVPD Communications and Modernization of Media Regulation Initiative w/ Offices of Chairman, Offices of Cmmsrs Oâ€™Rielly and Carr, and Media Bureau](#)
- 11/6 [FCC Replies to Comments \(w/ NCTA\) re Metrom Rail LLCâ€™s Request for Waiver of Part 15 Ultrawideband Rules for a Positive Train Control System 3.7-4.2 GHz Band](#)

For all ACA filings, letters, and testimonies, please the [ACA website](#).

## NEWS HEADLINES

### [AT&T's WarnerMedia Holds Content Talks With NBCU \(The Information, 11/9\)](#)

AT&T's WarnerMedia has approached Comcast's NBCUniversal to discuss ways of working together, including about licensing films or TV shows for WarnerMedia's planned new streaming service. The approach signals that AT&T wants to strengthen its hand in competing with Walt Disney, Netflix and other rivals.

### [Pay TV Loses 1M Subs In Largest Quarterly Loss Ever \(USA Today, 11/7\)](#)

Cable and satellite TV providers lost about 1.1 million subscribers during the July to September period, the largest quarterly loss ever - and the first time the industry lost more than 1 million subscribers in a quarter, according to media and telecommunications research firm MoffettNathanson. arrive at the finding.

### **Reverse Comp Takes 45% Of Gray TV Retrans Revenue (TV Newscheck, 11/6)**

Gray Television reported record third quarter revenue of \$279.3 million. Gross retransmission consent revenue of \$91.6 million, while retransmission expense was \$41.4 million. Therefore, retrans revenue, net of retransmission expense, was \$50.2 million for the third quarter of 2018.

### **Comcast Developing Streaming Platform For Broadband-Only Subs (CNBC, 11/7)**

Comcast plans to roll out a new product for broadband-only subscribers that will allow customers to aggregate certain streaming apps, including Netflix, Amazon Prime and YouTube, with a voice-activated remote - a response to the ongoing challenge of navigating video between a variety of sources.

### **AT&T's HBO Goes Dark Due To Dish Standoff (Fox Biz News, 11/1)**

A blackout will keep HBO and Cinemax off the air of one of its biggest distributors. The signal for the AT&T-owned channels went dark on satellite distributor Dish and its sister service Sling TV as of Nov. 1 when the two sides could not come to terms on a new distribution agreement. Dish alone represents 2.5 million subscribers for HBO.

### **Cable Media Attorney Frank Lloyd Dies, Age 77 (Multichannel News, 11/7)**

Frank Wesley Lloyd III, a retired attorney who specialized in telecommunications law and was a partner with the firm of Mintz, Levin, Cohn, Ferris, Glosky and Popeo, died on Oct. 31 at Georgetown University Hospital, his family reported. The cause was a sudden, rare neurological disorder resembling Guillain-Barre Syndrome. From 1977 to 1981, he served as chief of staff to FCC chair Charles Ferris.

### **Altice USA CEO Explains Exit From NCTA (CableFax, 11/6)**

As for Altice USA's recent decision to leave the NCTA, CEO Dexter Goei said it was a decision related to the "mix of participants" in the trade group. NCTA "probably has way too many conflicts of interests than they don't," he said. "As you think about how dynamic this industry is, and how it's becoming more and more dynamic with the convergence of telecom, content and technology, it's very difficult to sit around the table with a lot of brethren we have commonality with, but also many others which we might not have as much commonality with."

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## **ACACTION BRIEF TOP THREE**

### **Most-Clicked Links From Oct. 31 ACAction Brief**

1. [AT&T's Sputtering Media Bets Dragging Its Stock Way Down \(CNBC, 10/24\)](#)
2. [Rocco Comisso Set To Enter Italian American Sports Hall Of Fame \(Soccer Wire, 10/30\)](#)
3. [FCC Gets OK For New Economic Analysis Office \(Multichannel News, 10/26\)](#)

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## **ABOUT THE AMERICAN CABLE ASSOCIATION**

Across this vast country, small and rural markets participate in the digital revolution by receiving video, broadband, and phone services from more than 700 small and medium-sized independent operators represented by the American Cable Association (ACA).

ACA's members – cable, phone, and fiber-to-the-home operators and municipalities – deliver affordable basic and advanced services to nearly 7 million households and businesses. ACA members operate in every state, offering high-definition television, next generation Internet access, and digital phone service.

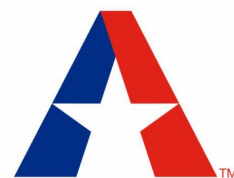
Access to advanced communications is not a luxury but a critical necessity for consumers and companies, schools and hospitals. America's economic prosperity in smaller markets and rural areas depends on the growth and success of ACA members, who believe a connected nation, is a united nation.

The ACA asks lawmakers and regulators to ensure fair treatment so that small and medium-sized independent operators may continue to supply affordable video, broadband, and phone services to Main Street America. Through active participation in the policymaking process, ACA members and leaders advocate for the interests of their customers, their companies, and their communities to help ensure the continued viability of their way of life in hometown America.

For more information, visit [www.americancable.org](http://www.americancable.org), or contact:

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