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Jury: Cox illegally forced customers into renting its set-top box

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Starz & CEO Chris Albrecht Sued By Ex-SVP Over "Illegal Activities" & Inflated Revenue & Subscriber Numbers

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Editorial: Send a message to officials with your vote

Voters in 26 Colorado cities and towns, along with 17 counties, on Tuesday will be **deciding whether to lift a decade-old law** that prohibits their local governments from getting into the broadband Internet game. By far, it's the largest group of municipalities to take on the 2005 law, the aim of which was to ensure that private Internet providers weren't forced to compete with government-funded data networks in providing high-speed Web service to homes and businesses.

The reasons vary for the ballot measures across the state. Some communities **want to provide Wi-Fi in public buildings** and parks while others have plans to partner with the private sector on building out a fiber-optic backbone. Others, mostly rural and small cities, say their current broadband service is lousy and they want to improve it. "It's not that we want to compete with the private sector — it's that the private sector isn't providing the level of service the community needs," said Ken Fellman, general counsel with the Colorado Communications and Utility Alliance.

Geoff Wilson, general counsel for the Colorado Municipal League, said his organization hears a "constant drumbeat" of complaints from cities and towns that their Internet service is unreliable and slow. As high-speed data connections have become increasingly crucial to luring high-paying jobs to Colorado, Wilson said the issue has become that much more critical to a community's economic well-being. "Broadband Internet is the streets, sewers and water lines of our time," he said.

But Pete Kirchhof, executive vice president of the Colorado Telecommunications Association, said developing a broadband data network is not as simple as laying some fiber underground and watching the gigabits pour in. He said the 2005 law, SB-152, "is working exactly how it is supposed to" in that it requires voter approval before a municipality embarks on a major broadband initiative. "If government is going to be getting into this risky business, taxpayers ought to know about it and approve it," said Kirchhof, whose organization represents more than two dozen rural independent phone companies in Colorado.

He points to the **troubles faced by EAGLE-Net**, the quasi-governmental entity that in 2010 secured $100.6 million in federal stimulus money to expand broadband coverage across Colorado, promising to connect every school district to its high-speed network. EAGLE-Net has been slammed for overbuilding and laying fiber-optic cables in communities that already have multiple networks. And next door in Utah, a consortium of cities put together broadband provider UTOPIA, which has struggled with heavy debt, mismanagement and construction problems. "You better know what you're getting into because it's very risky," Kirchhof said.

He also points out that city-run broadband services can be inherently unfair in the marketplace, since governments don't pay taxes, act in a regulatory capacity and control the rights-of-way in which fiber-optic cable is laid. Most cities, however, don't want to replace the private sector, Fellman said. Centennial, which exempted itself from SB-152 in 2013, is working with a consultancy, Magellan Advisors, to design a fiber-optic backbone for the city, which it would run in partnership with the private sector. "I really think that most municipalities do not want to be broadband providers," Fellman said. "But if you own your own fiber, you know how much capacity you have at any given time."

In the past four years, 10 cities and towns — including Boulder, Cherry Hills Village, Red Cliff, Montrose and Wray — have voted to exempt themselves from the constraints of SB-152. Longmont stands as the prime example of a city that went all in on municipal broadband. It failed in 2009 in its first attempt to defeat the state law at the ballot box, after it was heavily outspent by the industry, but managed to get out from under SB-152 during the 2011 election.

Two years ago, **Longmont voters approved a $40.3 million bond issue** to build out the city's 17-mile fiber-optic loop within three years. Tom Roiniotis, general manager of Longmont Power and Communications, said the city had grown tired of trying to make a deal with private Internet providers to light up broadband service in Longmont. Comcast and CenturyLink base their investments on where they will get the greatest return for their shareholders, and not on the interests of a particular community, he said. "Had they done it, we wouldn't be having this conversation," Roiniotis said.

Longmont has nearly 20 percent of the city covered by its NextLight gigabit Internet service, and Roiniotis thinks the entire city will be wired by the end of next year. Earlier this year, speed testing company Ookla declared **NextLight's one gigabit per second the country's fastest Internet service**. Downloading a digital movie on gigabit speed takes less than two minutes. "We've already had businesses tell us they are staying here — or relocating here — because of this service," Roiniotis said.

Comcast announced last month that it would be bumping up speeds for most of its subscribers to a maximum of 150 megabits per second — more than six times slower than NextLight. Cindy Parsons, a Comcast spokeswoman, said gigabit speed Internet from Comcast is available but it is priced at $300 a month. Longmont charges $50 a month. But unlike Longmont, which has its own electric utility, most other municipalities in Colorado would be starting from a much different point.

Virgil Turner, director of innovation for Montrose, said residents in his city were feeling "pretty desperate" about the quality of their Internet service before the city voted to exempt itself from SB-152. "We had businesses that were on the verge of leaving Montrose," he said. Since the election 18 months ago, Turner said the city has partnered with a private company to run high-speed fiber to a new co-working facility where the city has meeting space. It's also looking to team up with a local electric cooperative to extend fiber to homes in Montrose. "We didn't know exactly what we'd do," Turner said. "But we no longer are under this dark cloud of not being able to be innovative." – ***Denver Post***

A federal jury in Oklahoma has awarded $6.31 million to a group of cable TV customers after it found that Cox Communications broke federal antitrust law. Cox unfairly forced customers to rent its set-top box as a condition of receiving premium cable service, the jury ruled. Refusing the box meant being unable to access Cox's interactive channel guide and on-demand video, according to **the original complaint**.

Not only did tying premium service to set-top boxes limit features for subscribers who wanted to use third-party boxes, but Cox unfairly profited from customers who rented its own set-top box (and may have been forced into the decision against their will), according to the class action. A congressional probe this year found that consumers **pay more than $230 a year** renting set-top boxes from their cable companies. "Even if Cox purchases set-top boxes for only $200, Cox's monthly rental fee of at least $6.99 in its Oklahoma City market will surpass $200 in less than two years and five months," the complaint read, "leaving Cox with a minimum of 2½ years of pure profits and consumers with a substantial loss."

Cox argued that it didn't force customers into doing anything they didn't want to do, noting that Dish and DirecTV are both available in the region. It also pointed to other set-top boxes such as TiVo that could provide an alternative to the Cox equipment. But the jury ultimately decided in the subscribers' favor. Despite the ruling, Cox officials are "gratified that the jury recognized most of the damages plaintiffs were seeking were unwarranted." The company is trying to get the verdict overturned.

Federal regulators are looking at whether to adopt new rules on cable companies that aim to weaken their control over the set-top box market. Companies like Google have **argued** for the ability to repackage the way cable channels are displayed to consumers on third-party boxes, while cable firms cite legal and contractual hurdles to opening up their service for others. Meanwhile, some firms, such as Time Warner Cable, hope to retain consumers by **doing away** with the set-top box entirely. – ***Washington Post***

Pennsylvania's two U.S. senators divided in an early-morning budget vote, in which Republican Pennsylvania Sen. Pat Toomey voted against a bipartisan budget deal that will guide federal spending through 2017.

The budget agreement cleared the Senate on a 64-35 vote with backing from Democrats and 18 Republicans. Toomey said he opposed it because the agreement suspends the national debt limit and raises spending instead of reforming the fiscal practices that have led to that limit being repeatedly raised. "Unfortunately, this budget deal fails to address our overspending problem — in fact, it makes the problem worse by increasing spending," Toomey said in a statement ahead of the vote.

	Two of the Democrats seeking to unseat Toomey next year were critical of his vote. Retired Navy Adm. Joe Sestak said that with his vote, Toomey was “placing ideology over the interests of the American people.” Katie McGinty, who served as Gov. Tom Wolf’s chief of staff before launching her Senate bid, said Toomey’s opposition showed he is “willing to play games with the full faith and credit of the United States.” The region’s U.S House members had backed the budget agreement, except for GOP Rep. Lou Barletta, who also said it should have done more to limit spending and reduce the national debt. – ***Allentown Morning Call***