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Federal regulators are looking into new offerings, such as T-Mobile's Binge On, that exempt video and other services from data caps to determine whether they violate new rules for Internet traffic.

Tom Wheeler, chairman of the Federal Communications Commission, said Thursday the agency sent letters to T-Mobile, AT&T and Comcast asking for informal meetings to discuss "some of the innovative things they are doing." "This is not an investigation. This is not any enforcement," he told reporters after the agency's monthly meeting. The letters were sent Wednesday, and the companies were asked to make employees available by Jan. 15.

Wheeler said the goal is for FCC officials to stay aware of innovative services in the wake of the agency's tough new net-neutrality regulations, which are designed to ensure the uninhibited flow of Internet content. Those controversial rules, which took effect in June and are being challenged in court, prohibit Internet service providers from discriminating against legal content flowing through their networks.

Some consumer advocates and other critics have raised concerns about so-called zero-rating and sponsored-data plans, which exempt select content from counting against customer data limits. Such plans could hinder innovation by giving preference to certain content providers. Binge On was unveiled last month with great fanfare by T-Mobile Chief Executive John Legere at the Shrine Auditorium in Los Angeles. The service allows customers to watch as much video on their mobile devices as they want from Netflix, Hulu, HBO, ESPN and about 20 other providers.

"We want to ensure that we have all the facts to understand how this service relates to the commission's goal of maintaining a free and open Internet while incentivizing investment and innovation from all sources," Roger Sherman, chief of the FCC's Wireless Telecommunications Bureau, wrote to T-Mobile. T-Mobile said it looked forward to giving the FCC details about Binge On. "We continue to be strong supporters of net neutrality and firmly believe in the principles of equal access to an open and free-flowing Internet," the company said. "This program provides both great customer choice and industry innovation that encourages competition, and we believe it is absolutely in line with net-neutrality rules."

Similar letters were sent to AT&T about its Sponsored Data and Data Perks plans, which allow companies to subsidize the data costs for customers using their services, and to Comcast about a new offering called Stream TV. Now being tested in a handful of

chronicles – The mess grows (again)

Allentown Morning Call
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markets, Stream TV allows the company's Xfinity Internet customers to stream Comcast cable programming that doesn't count against data caps. "Our Stream TV service does not go over the public Internet. It is a cable service that only works in the customer's home," said Comcast spokeswoman Sena Fitzmaurice. "It is not a so-called 'zero-rated' service."

Comcast would participate "in the FCC's fact-gathering process relating to industry practices," she said. AT&T said it was reviewing the letter and would respond "as appropriate." "We remain committed to innovation without permission and hope the FCC is too," AT&T spokesman Michael Balmoris said. The meetings will be an "informal review of new offerings so the commission is fully informed about new marketplace offerings," FCC spokeswoman Kim Hart said.

The companies also can discuss "their views on how the broadband industry as a whole is developing," and the FCC "will invite others — including other commercial interests and public-interest groups — to meet with us as well," Hart said. The net-neutrality rules were passed on a partisan vote by Wheeler and the FCC's other two Democratic members. The agency's two Republicans, who opposed the rules, complained Thursday that they had not been told of the letters and said Wheeler was on a "fishing expedition" for net-neutrality violations. "Make no mistake, this is an investigation," Commissioner Ajit Pai said. "This is not simply a benign informational inquiry." Hart said all commissioners' offices were told about the letters before they were sent and received copies Thursday. – ***Los Angeles Times***

The Walt Disney Company has just signed a deal that could dim the prospects for Netflix growth in China. The media company has partnered with Alibaba to bring Disney content to viewers via an over-the-top streaming service.

This is the fear of Netflix investors coming to life. Meanwhile, the shorts, few that there are, rejoice. KPL Capital's Ovadia Ovi Levy, who is short Netflix, believes the failure of the company to Netflix grow in China will undercut its growth opportunities. "Outside of the blockbusters, American content does not travel well," he said to me in an interview published earlier this week. "Cultures like to see their own faces on screen, their own values."

China has its own production infrastructure that makes plenty of films. These are Chinese films, with Chinese characters, and Chinese content. In addition, Levy said, China has a cable TV monopoly that partnered with Alibaba, and other state-owned media, to stream video. Now, with a new deal withi Disney in place, Alibaba could make things even more difficult for Netflix in China.

This isn't just a streaming service for Disney content. The fact that it is an actual streaming device that has other functionality is what makes it such a blockbuster. The device, called DisneyLife, can be purchased through Alibaba's Web site. It will cost $125 -- not much more than Apple TV. The DisneyLife product will be a one-stop shop to purchase all things Disney, including theme park tickets. It starts shipping this month. Yet, based on the behavior of Netflix stock, it does not appear that investors understand just how bad this is for Netflix in China.

What is so devastating is that Netflix signed an exclusive U.S. deal for Disney movies (including Pixar, Marvel, LucasFilm, and Disney Animation) four years ago. Some older Disney fare rolled out in 2013, the new Marvel TV series hit this year (*Daredevil*, *Jessica Jones*), but next year all the big recent movies and those hitting theatres from this day forward will go to Netflix for exclusive streaming.

Yet instead of offering Netflix its content for China, Disney blew Netflix off and partnered with Alibaba. Disney is a global brand name, and so is Alibaba. The set-top device should be a big hit over there. It could be that Disney gets a share of both the hardware revenue and annual subscription revenue directly from Chinese viewers instead of a license fee from Netflix.

The other reason Disney chose Alibaba could be because CEO Jack Ma is clearly a favorite son of the Chinese government. And Disney likely wants to be as close to the government as it can, so that it isn't hit with any surprises in doing business in China, a place where it can be difficult to do business if you don't have the blessing of the government. And Ma has done much to ingrain himself into Chinese life. His Taobao Marketplace and Tmall.com account for 60% of packages shipped through China's postal system, according to CNBC.

Because Alibaba has a partnership with state-owned broadcast media, and now that it has Disney on board, it sends a message to other content providers: If you want to stream in China, you come through Alibaba. Don't be surprised if you see other U.S. content providers partnering with Alibaba's streaming service in China, and not Netflix's -- if it even gets to launch there. – ***The Street***

A Virginia jury has issued a $25 million verdict against Cox Communications in an online piracy case that could mean more trouble for downloaders of illegal content. Music company BMG had sued Cox in 2014, saying the cable company wasn't forwarding warnings about illegal downloads to its customers or stopping their behavior. Marquette University Law School professor Bruce Boyden says both sides saw this case as "trailblazing" and that it makes clear that Internet service providers, or ISPs, are obliged to respond to takedown notices from rights holders. He says now customers will be more likely to get sent such notices, and "cautious" ISPs more likely to consider cutting off service to repeat offenders. Cox spokesman Todd Smith says the Atlanta company is considering its options, including appeal. – ***Associated Press***

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