BCAP NewsClips January 18, 2016

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West Virginia state lawmakers are targeting telecommunications companies in the state that advertise “high-speed” Internet service but don’t deliver anything of the sort to customers.

Members of the House of Delegates reviewed legislation last week that would require Internet providers to offer download speeds of at least 10 megabits per second if the companies advertise their broadband service as “high speed.” Many West Virginians, particularly those who live in rural areas, don’t have Internet speeds anywhere near 10 megabits per second. Customers with slow service can’t use TV- and movie-streaming services like Netflix. “They feel they never get the speed the Internet providers represent,” said Delegate John Shott, R-Mercer, who heads the House Judiciary Committee. “There doesn’t seem to be any recourse or regulatory body that has any ability to cause that to change.”

In October 2014, Frontier Communications customers filed a class-action lawsuit, alleging the company “throttles back” its Internet service and provides speeds slower than advertised. Frontier, the lone Internet provider in many rural parts of the state, responded that customers got the service they paid for. The two sides continue to battle in court.

State lawmakers say they’ve fielded an increasing number of complaints from constituents about Internet service — slow speeds, unreliable service, or no service at all. “The list of sponsors of this bill [HB 2551] are from a broad geographic area,” Shott said. “They’ve identified this as a problem in their areas.” According to the bill, Internet providers could face sanctions under state consumer protection laws. The Attorney General’s Office would be required to investigate customer complaints. “Basically, there are contracts where [Internet providers] provide and charge for what they call ‘high-speed’

Internet service, however, the speeds can vary," said Nate Tawney, a lawyer with the House Judiciary Committee. "They may advertise speeds up to 12 or 15 megabits per second, but the customer may receive only a fraction of that."

Under the bill, customers could recoup up to $3,000 in damages every time Internet providers falsely advertise Internet speeds. The companies also could be fined up to $5,000 for each violation. The 10-megabit download speed requirement is significantly slower than federal guidelines. The Federal Communication Commission recently changed its standards and doesn't consider anything below 25 megabits per second to be high-speed Internet. "The FCC has been the leader of what broadband should be and how fast it should be," Tawney said.

Some lawmakers have suggested tying West Virginia's download speed to the FCC's definition of high-speed Internet. But that could discourage Internet providers like Frontier from expanding into some rural markets, where it's not cost-effective -– and next to impossible -– to provide speeds anywhere close to 25 megabits. "When you get right down to it, it's a very complicated situation," said Delegate Frank Deem, R-Wood. On Friday, Shott appointed a three-member subcomittee —Delegates J.B. McCuskey, R-Kanawha, Roger Hanshaw, R-Clay, and Andrew Byrd, D-Kanawha — to study the issue and revise the bill in the coming weeks.

Frontier lobbyists are keeping a close watch on the legislation. "We are available to the subcommittee to provide information, explanation and background on this issue as we continue our last-mile infrastructure investments to expand access and increase speeds to our customers," said Frontier spokesman Andy Malinoski.

In December, Frontier agreed to upgrade Internet speeds to 6 megabits per second for about 28,000 customers, following a settlement with Attorney General Patrick Morrisey's office. Frontier had been advertising speeds of "up to 6 megabits per second, but many customers found speeds of 1.5 megabits per second or lower," according to the settlement. Also Friday, Sen. Chris Walters, R-Putnam, introduced legislation that would create a $72 million fiber-optic Internet network in West Virginia. The bill aims to increase Internet speeds, improve service and drive down prices for business and residential customers. – ***Charleston (WV) Gazette-Mail***

Tensions between Netflix and traditional television networks escalated this weekend after industry executives expressed mounting frustration over Netflix's refusal to disclose ratings.

At a Television Critics Association event, NBC Universal introduced viewership figures last Wednesday provided by an outside firm that suggested several of Netflix's shows fall in line with broadcast and cable shows, implying that traditional television remains vibrant. On Saturday, John Landgraf, the chief executive of the cable network FX, picked up the theme, saying it was "ridiculous" that Netflix did not release viewership numbers.

Netflix's chief content officer, Ted Sarandos, shot back on Sunday, saying the numbers provided by NBC were "remarkably inaccurate" and asking why NBC would spend time and energy to "talk about our ratings." "Maybe because it's more fun than talking about NBC ratings," he said. The pitched back-and-forth occurred as ratings are falling for broadcast and cable networks while Netflix's offerings of original programs are growing. Mr. Sarandos said that the streaming service would spend $6 billion on content this year, and original scripted programming would be part of that budget.

Television executives have been frustrated because Mr. Sarandos has at times suggested Netflix shows would fare better than what is on cable and broadcast television. Last month, for instance, he said the Netflix show “Narcos” would be the most-viewed show on cable, not HBO’s “Game of Thrones.” “Netflix brought it on themselves when they make assertions like their show would be the highest-rated cable show,” Gary Newman, co-chief executive of the Fox Television Group, said in an interview.

Likewise, Mr. Landgraf said in an interview, “If Ted doesn’t give ratings, he shouldn’t then be saying, ‘This is the biggest hit in the history of blah blah blah.’ He shouldn’t say something is successful in quantitative terms unless you’re willing to provide data and a methodology behind those statements. You can’t have it both ways.” The battle over ratings began when Alan Wurtzel, NBC Universal’s head of research, said on Wednesday that he was confronting the “800-pound gorilla” and gave the news media what he described as a “Netflix reality check.”

Ratings, particularly among 18- to 49-year-olds, dictate how much money cable and broadcast networks make from advertisers. Mr. Wurtzel provided data from a firm named Symphony Advanced Media, which uses audio content recognition installed on phones to recognize what is being watched and when.

According to Symphony’s data, the Netflix show “Jessica Jones” was viewed by 4.8 million people within the first 35 days of its premiere in the 18- to 49-year-old bracket important to advertisers. In that demographic, Mr. Wurtzel said that, according to Symphony’s data, “Master of None” had 3.9 million viewers, “Narcos” had 3.2 million and Amazon’s “The Man in the High Castle” had 2.1 million viewers. Mr. Wurtzel said the data showed that when streaming-service shows debut, viewership is strong and then peters out after a few weeks before viewers return to watching cable or network television. “My only point is I don’t believe there’s enough stuff on Netflix that is broad enough and is consistent enough to affect us in a meaningful way on a regular basis,” Mr. Wurtzel said.

Mr. Newman, of Fox, was particularly interested in this. “If you look at the data, it’s very compressed and it falls off,” he said. “Our shows tend to be in the cultural conversation for three to four months at a time. And I think that’s powerful to our advertising partners.” He also said that the numbers were “within the mid- to upper level of cable dramas and within the ballpark of what I’d expect.” Mr. Landgraf said that the data did not “feel rigorous enough.”

And Mr. Sarandos pushed back hard on Symphony’s data, particularly its focus on 18- to 49-year-olds since Netflix sells subscriptions, not advertising based on a specific demographic. “The methodology and the measurement and the data itself don’t reflect any sense of reality of anything that we keep track of,” Mr. Sarandos said. “That could be because 18- to 49-year-old viewing is so insignificant to us I can’t even tell how many 18- to 49-year-old members we have. We don’t track it.”

Mr. Sarandos, instead, pointed to the number of Netflix subscribers, which he said is about 70 million worldwide, and 43 million in the United States. In keeping with his public stance that Netflix would never release ratings, he said he did not want to engage in a “weekly arms race.” “Once we give a number for a show, then every show will be benchmarked off of that show even though they were built sometimes for very specific audiences,” he said. He added: “There is a very natural inclination to say, ‘Relative to this show, this show is a failure.’ That puts a lot of creative pressure on the talent.”

Meanwhile, Mr. Landgraf said on Saturday that FX pursued “Master of None” and Netflix’s coming show, “The Crown,” but the free-spending streaming

	service “overwhelmed us with sort of shock–and-awe levels of money and commitment.” FX, he said, has to be profitable whereas Netflix does not have to worry about that now. “I mean, basically, we are competing against payrolls à la the Oakland A’s and the New York Yankees that are three, four times ours,” he said. He called it a “little frustrating” because “FX’s earnings alone are many, many times higher than Netflix’s globally, many times higher.” As for NBC’s ratings numbers, Mr. Landgraf said that at some point Netflix’s viewership levels would be reliably revealed. “I think the national security apparatus of the United States has the right to secrecy,” he said. “There’s a strategic need to that and what’s at stake is the security of America. I don’t think Netflix has that high a call on secrecy. If they’re willing to be judged on merit and truth, they should put the information out there.” – ***New York Times***

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Broadband
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127 State Street, Harrisburg, PA 17101
717.214.2000 • bcapa.com

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