

September 19, 2016

FILED BY ECFS IN GN DOCKET #16-245

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: You Have to Pay Extra for Double-Stuffed

Dear Ms. Dortch:

Imagine you are out for a walk and experience a sudden, irresistible craving for Oreo[®] cookies. You only want to spend two dollars, which means that you will be able to buy a two-pack or maybe even a four-pack but for sure you cannot get the family size of over 40 cookies. For that many, you have to spend more. Of course, it would be nice if your two dollars bought you the right to eat an unlimited number of cookies, but you know that is not the way our economy works. It is the same for the Starbucks latte you might want to drink with your cookies and for socks, gasoline and just about every single one of the thousands of other products and services that are for sale in the United States, including essentials like water and electricity.

In the case of virtually everything you buy, the fact that your cost goes up as you consume more will neither surprise you nor set you off on a passionate crusade to get the government to force producers to sell an unlimited quantity at a fixed price. We all know this to be the way things work in our economy and understand at some level that there are valid reasons for why that is so.

Remarkably, the only exception to this truism we can think of is bandwidth. A fair number of otherwise intelligent people vociferously complain about ISPs imposing a “cap” on bandwidth usage. In essence, a bandwidth cap or allowance is simply a pricing mechanism by which those who consume more pay more. Even though virtually every other industry prices its products and services in the same way, some people think that ISPs should be the exception and run their businesses like an all-you-can-eat buffet.

Not surprisingly, a lot of the critics and complainers are people who are heavy Internet users. Because the Internet is so central to their personal lives, they believe that ISPs should have to accommodate their budgetary limitations or preferences by offering unlimited capacity at a limited price. They do not expect to be able to get Lamborghini performance for a Kia price, but believe that they should get unlimited broadband service for a low fixed charge.

Ironically, those who think ISPs are greedy pigs or evil villains because they charge based on consumption through caps or usage-based pricing do not direct the same moral outrage toward edge providers who price their services in basically the same way. Netflix, for example, charges \$7.99 a month for its “basic” subscription. A basic subscriber does not get unlimited usage of Netflix’s library for that price but, instead, is limited to videos in standard definition format and on only one screen at a time. If you want to watch HD or UHD videos and use more screens, you have to pay more. The higher the resolution and the greater the number of screens, the more it costs. In effect,

Netflix “caps” the amount of bandwidth a user can consume at each of its service levels and charges for usage in excess of that limit.

Google does much the same thing with services for which it charges, such as cloud storage—a fixed fee buys you only a capped amount of storage capacity and if you want to use more, you have to pay more. If you like Google Play games, you do not get unlimited access for a given price—the more games you want to play, the more it costs. YouTube is a “free” service, except that some video content is available only on restricted “channels” that you cannot access unless you pay a subscription fee for each one you want to watch.

Even device manufacturers that many ISP-bashers regard with something approaching worship do the same thing—the more memory you want for your iPad or iPhone, the more you have to pay Apple. Apple also offers different levels of cloud storage capacity for different prices, and caps the amount of capacity that a subscriber to each level can use. Buying an Xbox One from Microsoft does not get you access to features available only if you pay an annual fee for the Xbox Live Gold service. Moreover, the basic Xbox gaming console has a limited amount of storage and if you want more, you have to pay more.

In addition to failing to adequately explain that ISPs’ practices are entirely consistent with the way in which virtually every other product and service is priced, the bashers and critics also do not point out that the flip side of having to pay more when you consume more is that if you use less, you pay less. Instead of imposing a cap, the ISP could simply increase the monthly subscription fee for the relevant service level by an amount sufficient to generate additional revenues equal to those that the cap would produce. However, because only a very small percentage of fixed-broadband customers ever exceed their caps, that would require the majority of users who stay below the cap to subsidize the consumption of the heavy users. We think it is fairer to ensure that those who use the most pay the most, rather than asking those who consume less to share the costs.

The reality is that, like other ISPs, Mediacom has tried its best to avoid raising broadband prices, even as we face increased costs and a growing need for capital in order to keep up with exploding demand for bandwidth, because of the simple reality that our customers don’t like rate increases and we want to stay competitive. Indeed, we have on several occasions increased the service speeds enjoyed by existing customers without increasing prices. It is extremely frustrating that we are criticized for instituting data caps that impact a tiny fraction of our customers instead of being recognized for pricing practices that have been more favorable to consumers than those of many, many companies in other industries which have increased their prices dramatically over the same period of time.

It is equally troublesome that ISP bashing is all the rage despite the fact that the only reason Internet access at speeds significantly faster than dial-up and DSL is available to the vast majority of Americans, that Amazon, Google, Netflix and other edge providers and their founders have grown rich and powerful and that future garage innovators have the opportunity to follow in their footsteps is because cable companies have invested over \$200 billion in extending and improving their networks in order to make broadband available to the vast majority of Americans and produce faster and faster speeds. Those expenditures have also triggered increased network investments by traditional telephone companies and spurred the development of other competitive technologies.

Similarly, the continuing investments by ISPs of billions for upgrades are the only reason that broadband networks have kept up with the explosive growth in bandwidth usage resulting from new applications, services and devices. Estimates are that many more billions will be needed going forward just to keep pace with rising demand. Where will this money come from if ISPs are unable to charge more as consumption increases? The net neutrality rules already prevent ISPs from sharing the costs of expanding capacity with the edge providers and device manufacturers who profit as a result. The push to outlaw caps and metered pricing will, therefore, leave ISPs with only two options for responding to ever-growing demands on their networks: absorbing those costs and thereby reducing the ability to generate or attract the capital needed to expand and improve services or pushing some or all of those costs onto all broadband customers in the form of across-the-board price increases, which will reduce their disposable income available for other purposes (including buying larger packages of Oreo® cookies and higher-priced levels of Netflix's streaming service) and require light users to subsidize heavy users.

Frank Underwood, the lead character on Netflix's original series *House of Cards*, remarked in one episode that "Nobody's a boy scout. Not even boy scouts." The major driving force behind the "stop the cap" movement comes from edge providers and tech companies which stand to make billions if they succeed in outlawing caps or securing some other form of price regulation of ISPs. That fact gives them a strong incentive to fool the public and regulators into believing that ISPs are doing something wrong by following pricing practices that are fundamentally no different from those that are commonplace across all industries and that they follow in their own businesses. They are trying to sell their self-interest as the public interest, when, in reality, they are just looking for some free cookies.

We would appreciate the Commission taking these points into consideration in addressing comments such as those filed by Netflix in this proceeding on September 7th.

Very truly yours,