I am asking that the Federal Communication Commission implement a new rule regarding monopoly power of Internet Service Providers. I am asking that Internet Service Providers in areas of no other broadband or DSL competition not be permitted to enforce data caps on consumers. In areas where competition exists, I propose that no FCC regulation be present, and allow competition in the marketplace to benefit the consumer.

Armstrong Cable fits the definition of monopoly under the Sherman Anti-Trust Act of 1890. They are the only broadband Internet provider in my geographical market. I have contacted Frontier Communications, AT&T, Time Warner, Comcast, Suddenlink, Charter, and others in attempt to obtain Internet service, even at DSL speeds in order to leave Armstrong Cable. I am unable to purchase Internet access from another provider because no one else offers Internet access. They are literally the only provider available, which establishes them as a monopoly (Ashrafi, 2014).

The free market has failed those of us in rural America. I am one of the 75% of Americans who have one, and only one, provider (Eggerton, 2013) of broadband Internet Service Providers, namely Armstrong Cable.

Armstrong Cable caps our data usage at 200GB per month before imposing additional fees. I live in fear that I will use too much Internet each month before I am forced to pay an overage fee to Armstrong Cable. When consumers exceed the data cap, consumers have one option, and only one option—pay an extra fee for exceeding the arbitrary cap. Consumers cannot decide to stop the Internet, nor can consumers elect to have their Internet speed reduced until the next billing cycle.

I feel I am being deprived of my ability to use the Internet each month. I have deleted video streaming services (Netflix, Hulu, Youtube, and Amazon Video) from my two daughters’ mobile devices (tablet, iPad) to prevent them from consuming data. I have deleted Netflix from their Nintendo Wii to prevent them from consuming data. For the one television we have streaming services, I feel I was forced to watch these services on the lowest video setting to avoid the overage fee charged, preventing me from enjoying the streaming service at the price I paid. I have to consciously decide if watching a video is worth the data it will consume, creating stress. Cable companies should not have offered unlimited data from the time they started offering Internet Service, and then suddenly changed it after consumers were accustomed to it.

I delay updating software until the end of the month to see if I will have enough data to avoid the arbitrary data cap Armstrong Cable imposes. Some months, I do not update software, which has security concerns for my personal data. I was forced to stop backing up software online due to Armstrong’s data caps. I was forced to install ad blockers on my computer to prevent videos that automatically play from starting, to avoid Armstrong’s data caps. I have an Amazon Fire Stick that provides a variety of streaming services that is now sitting on a closet shelf since I cannot use it due to Armstrong Cable’s data caps. I am unable to purchase a 4K television due to the amount of data used by the programming, because I could easily surpass the amount of data allotted by Armstrong Cable each month. I would pay over $1,000 per month if I watched anything in 4K due to Armstrong’s punishing data caps.

As an educator, I am concerned that students will avoid viewing videos or downloading PDFs that are essential to mastering the content to meet our program goals and university goals at Marshall University, in order to avoid exceeding their respective data caps.

The Internet has fundamentally changed the way consumers can pursue education (online courses), purchase items (Amazon, ebay), purchase music (Apple iTunes), read books (e-readers), rent movies (Netflix), and download video games (Microsoft and Sony) (Even though I can no longer play video games online due to the fear of exceeding data caps. Those companies competing with the aforementioned companies were forced to become more competitive in order to thrive, or perish. Companies such as Netflix with their streaming service, Hulu, Crackle, Amazon, and others are attempting to use the Internet to compete with cable companies’ traditional model of viewing television and movies. Rather than attempt to compete with these companies, cable companies abuse their role as gatekeeper of the Internet by making these services more costly than those offered by the cable companies. This gives the cable company’s streaming service an unfair advantage as the result of a broadband monopoly.

Cable companies are also abusing its broadband monopoly position in order to extract more fees from consumers. Rather than create and innovate to compete with streaming video services, cable companies have elected to prevent consumers from using their video competitors by restricting the amount of data before overage fees are forced upon consumers. Doing this makes the streaming services more expensive for the consumer, and increases the 97% profit margins cable companies currently have (Talbot, 2013).

Cable companies have chosen to punish those consumers who refuse to purchase video and telephone services by limiting the amount of data per month. “The average American’s television usage of thirty-five hour a week would equate to roughly 322 GB of data usage a month, not including any normal Internet data usage” (Ashriki, 2014, p. 485). In a family of four, such as mine, that would equal 1,288 GB of data per month, resulting in $400 per month overage fees. If we did not ration our data, Netflix, Amazon Prime, and Hulu would cost us 3X the price of my cable company’s television and Internet package. David Hyman reported in 2011 the price of delivering 1GB of data was less than one cent, and falling. Cable companies are charging 20 times that per GB of data, earning 2000% profit on overage charges (Dampier, 2012).

While Part 4, Section 214 of the FCC Open Internet Order allows reasonable network management, data caps have not been proven to be a reasonable network management action, and should not be considered an exception under the proposed rule. If the intent was to manage traffic, data consumed at off-peak hours would not count toward the data cap. All data, all hours, all days are counted against the data cap.

Other Internet Service Providers have stated data caps are a business decision, not a network management tool. Dane Jasper of Sonic and Dan McCarthy of Frontier have stated they have no intent to impose data caps on consumers. “"The cost of increasing [broadband] capacity has declined much faster than the increase in data traffic," says Dane Jasper, CEO of Sonic, an independent ISP based in Santa Rosa, Calif” (Bode, 2016, para 3.). “The nice part of technology and what has happened is that transport costs continue to decline and by putting in the packet optical fabric it takes away a lot of those constraints," McCarthy said. "There may be a time when usage-based pricing is the right solution for the market, but I really don't see that as a path the market is taking at this point in time" (Bode, 2016, para 6.).

Internet ISPs have admitted data caps have nothing to do with congestion. "I think one of the things people don’t realize [relates to] the question of capital intensity and having to keep spending to keep up with capacity,” [Suddenlink CEO] Kent said. “Those days are basically over, and you are seeing significant free cash flow generated from the cable operators as our capital expenditures continue to come down." (Bode, 2016, para 9

Cable companies have argued data caps are a result of fairness. Data caps are only fair to cable companies. If I use less data than the data cap, I do not receive a prorated refund, nor does the data carry over to the next billing cycle. Cable companies force consumers to purchase a minimum of 200GB of data. I feel this is very unfair.

Consumers have few options concerning additional data. Consumers can prepay for more data, but their estimate must be precise. If a consumer guesses wrong, the consumer is penalized financially by the cable company. If a consumer purchases data but fails to use it, the consumer does not receive the data or a refund. If a consumer guesses too low, the consumer is forced to pay the overage fee, in addition to the fee of adding extra data. This setup only benefits the cable company.

In violation of the Sherman Anti-Trust Act of 1890, cable companies are illegally tying their cable television packages using broadband data as an incentive to purchase cable television packages from them. If a consumer subscribes to both television and telephone services, cable companies provide additional data per month. Consumers watching cable television programming are less likely to need additional data. Consumers are forced to purchase products that are unwanted (television and telephone) in order to receive additional data. By tying these products with additional data, cable companies are reducing competition from competing video providers and telephone companies (Ashrafi, 2014).

“Data caps hardly represent an evolution toward a “fairer” system of broadband pricing. Instead, they allow already profitable cable providers to take advantage of inelastic demand and an uncompetitive marketplace to charge higher fees from captive consumers at the expense of future innovation” Hussain & Lucey, (2013, para. 16).

Cable companies continue to use an outdated quotation from 2010 from former FCC Chairman Michael Powell stating data caps are innovative. Powell has confessed he was wrong. “Asked by MMTC president David Honig to weigh in on data caps, Powell said that while a lot of people had tried to label the cable industry's interest in the issue as about congestion management. ‘That's wrong,’ he said. ‘Our principal purpose is how to fairly monetize a high fixed cost’" (Eggerton, 2013).

Cable companies are double charging consumers for Internet access. First, we are charged a set rate based on the speed we choose. Then, we are charged again, and again, and again, for the amount of data used if over the arbitrary limit imposed on consumers. This is the result of a lack of competition in geographical markets.

“Consumer access to unlimited bandwidth is good for society. It fosters innovation, drives commerce, and advances political and social discourse. Given that bandwidth is cheap and plentiful and will only grow more so with time, there is no good reason for bandwidth caps and fees to take root” Hyman, as quoted in Dampier, 2012, para. 21).

Thank you,

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