

Set-Top Boxes and the Emergence of Ubiquitous MVPD Apps

MB Docket No. 16-42; CS Docket No. 97-80

Mike Saperstein

AJ Burton

Peter Mihan

MJ Barrois

June 6, 2016

Frontier is a New Facilities-Based Entrant in the Video Marketplace

- As a telco, Frontier is by definition a competitive entrant in the video marketplace.
- In almost every market Frontier enters, customers can choose between three or more video offerings:
 - A cable provider;
 - Two satellite providers; and
 - Over-the-top and free over-the-air offerings.
- Frontier embraces the opportunity to expand video services across its footprint as rapidly as possible.

Frontier's Video Offerings & Video Rollout

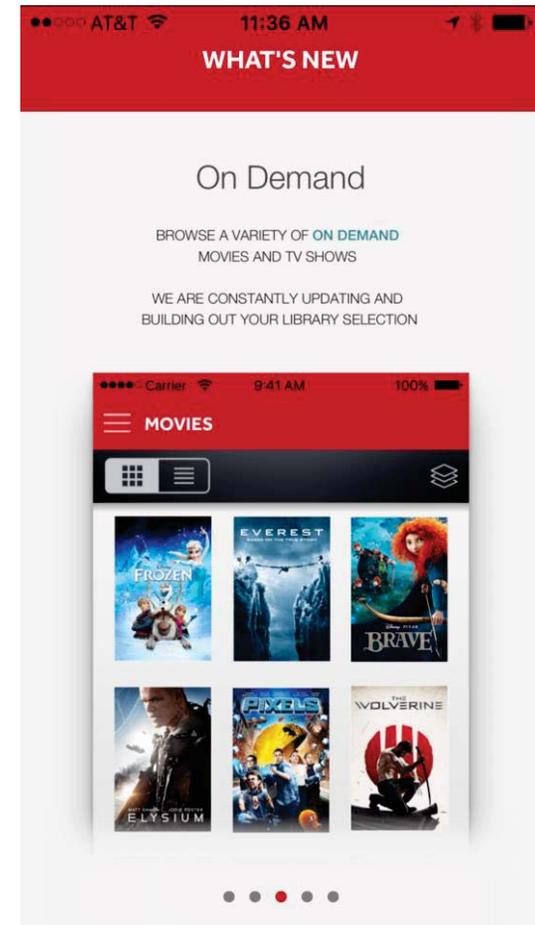
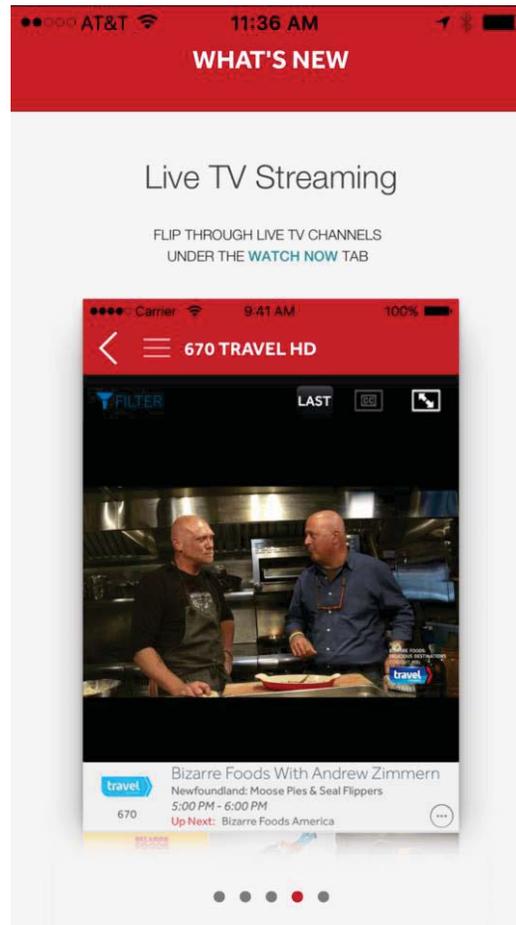
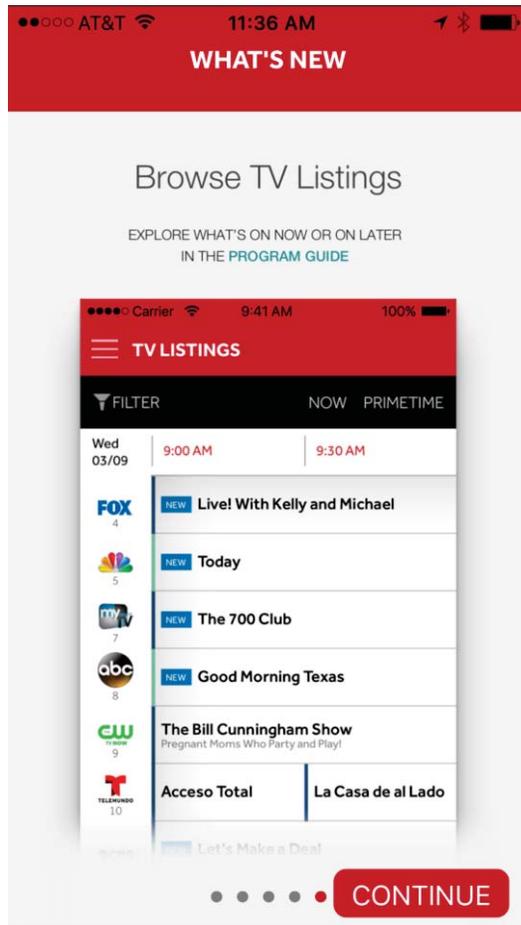
- With 1.5 million video subscribers, Frontier recently became the eighth largest MVPD following its acquisition of Verizon's wireline assets in California, Florida, and Texas.
- Frontier FiOS® TV is our fiber based product offering
- Vantage™ TV
 - IPTV leveraging Ericsson's Mediaroom platform
 - Access to over-the-top content, including Netflix, and interactive applications, including Twitter and Facebook
- Several other innovative offerings
 - FreedomTV™ – skinny bundle for \$19.99 per month
 - Partnering with TiVo to offer the TiVo Roamio OTA, an HD-DVR model that provides access to a mix of over-the-air broadcast TV and over-the-top content from sources such as Netflix, YouTube, and Amazon Prime
- Frontier just announced plans to introduce its new Vantage™ video service in more than 40 markets covering approximately 3 million households over a three- to four-year period.

Frontier's Apps

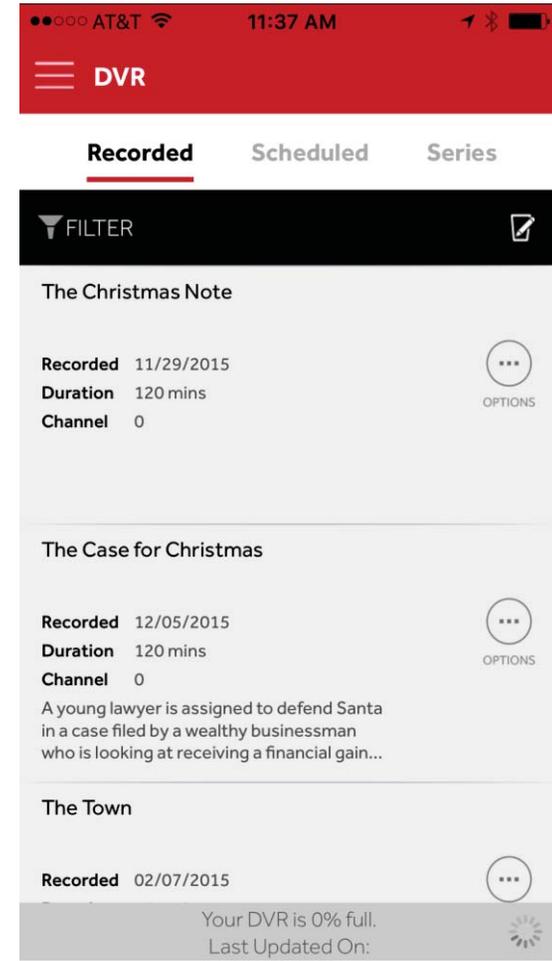
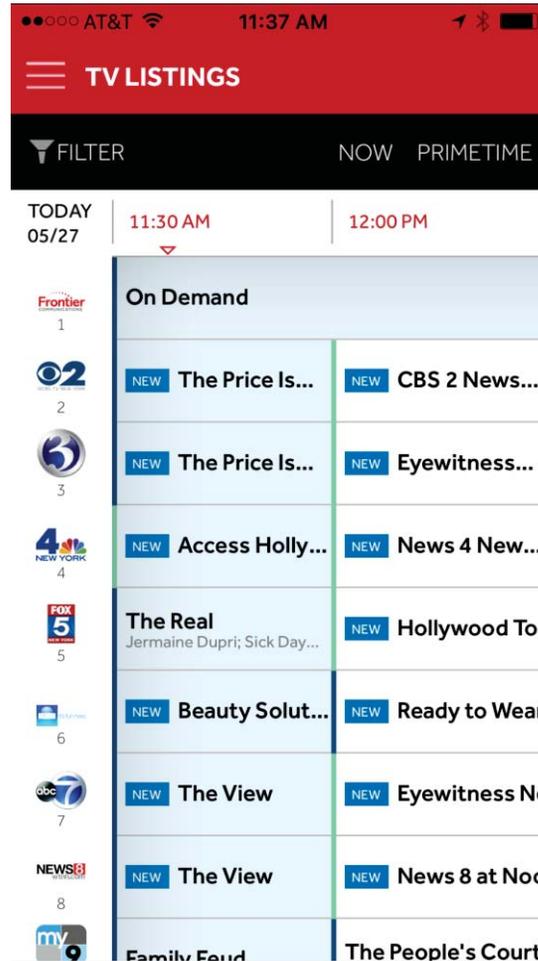
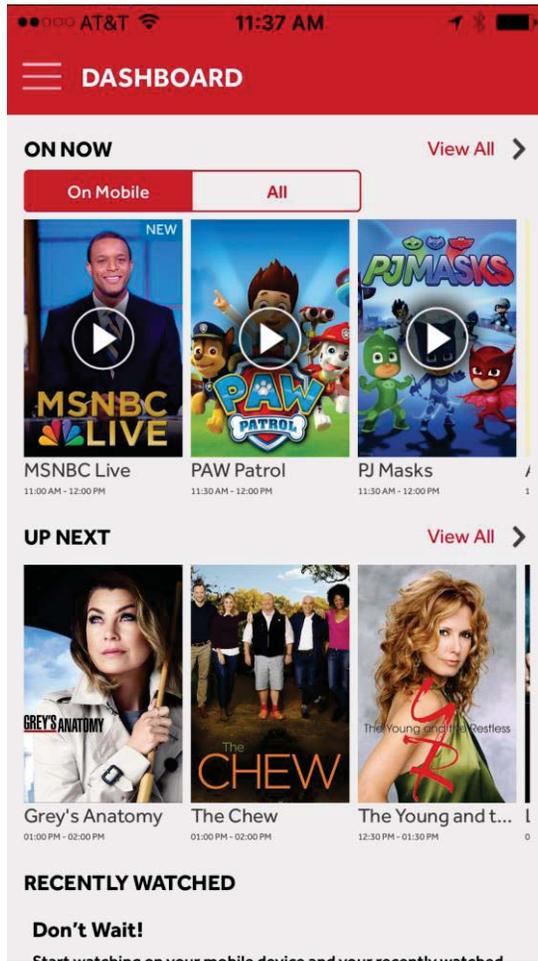
- FrontierTV Everywhere – Frontier FiOS® TV and Vantage™ TV customers can access Frontier content over an ever expanding number of devices, including iPhones, iPads, Android devices, PCs, and Macs, among other devices.



Frontier's iPhone App



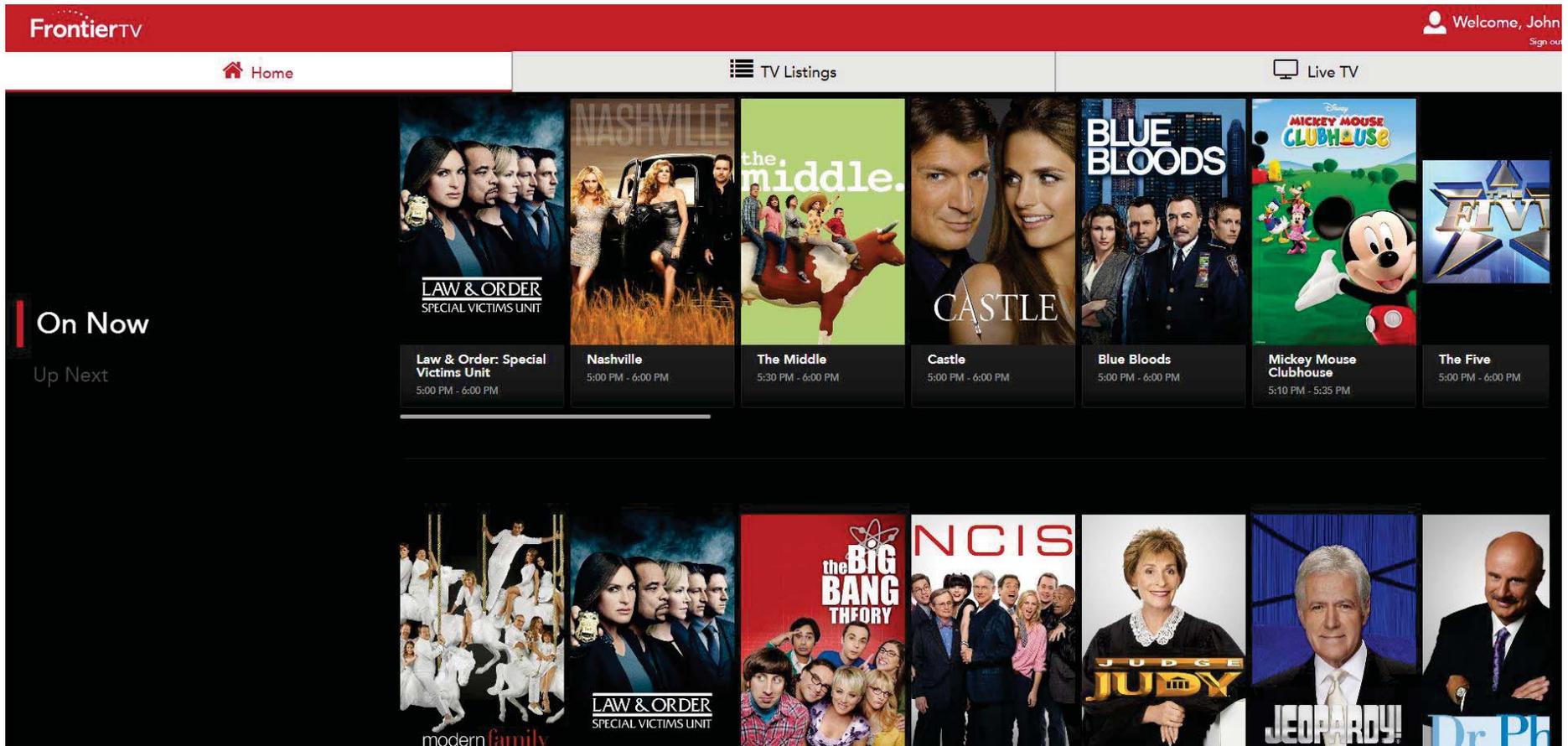
Frontier's iPhone App (cont'd)



Frontier's PC App

The screenshot displays the FrontierTV PC application interface. At the top, there is a red navigation bar with the FrontierTV logo on the left and a user profile icon with the text 'Welcome, John' and a 'Sign out' link on the right. Below this is a secondary navigation bar with three main sections: 'Home' (with a house icon), 'TV Listings' (with a list icon), and 'Live TV' (with a TV icon). The main content area is a grid of TV listings. The columns represent days of the week: TODAY, TOMORROW, SAT 5/28, SUN 5/29, MON 5/30, TUE 5/31, WED 6/01, and THU 6/02. The rows represent different channels: 119 AMC, 120 DISC, 122 BBC AM, 124 USA, 128 FX, 129 FX, 132 A&E, 133 HMC, and 134 E!. The 'We Bought a Zoo' movie is highlighted in the 128 FX row for today at 05:30pm. A detailed view for this movie is shown, including its duration (150 min), time slot (05:30 PM - 08:00 PM), genre (Shows), and a synopsis: 'Following his wife's untimely death, Los Angeles journalist Benjamin Mee (Matt Damon) decides to make a fresh start by quitting his job and moving his children (Colin Ford, Maggie Elizabeth Jones) to an 18-acre property containing the Rosemoor Wildlife Park. Though closed for years, Rosemoor is still home to many animals, cared for by Kelly Foster (Scarlett Johansson) and her small staff. Mee opens his heart and his checkbook as he, Kelly and the others work to renovate and reopen the zoo.' The cast and credits list Matt Damon, Scarlett Johansson, Thomas Church, Patrick Fugit, Colin Ford, Elle Fanning, Maggie Jones, John Higgins, Angus MacFadyen, Peter Riegert, Stephanie Szostak, and JB Smoove. There are 'Watch Now' and 'View Details' buttons. A 'TV PG' rating and a 'MOVIE' tag are also visible.

Frontier's PC App (cont'd)

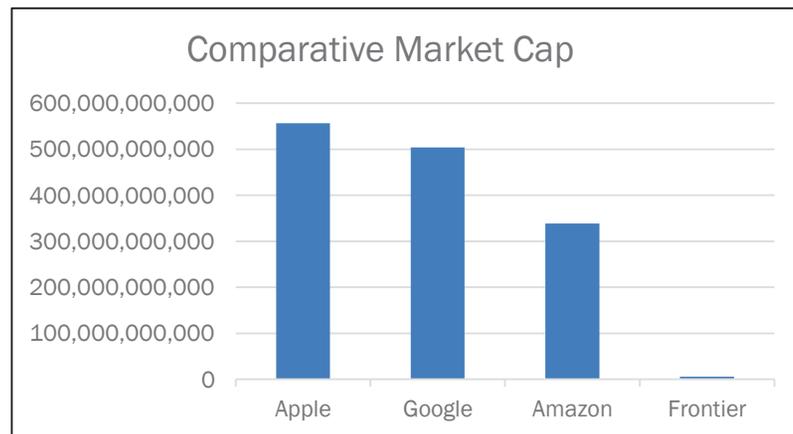


Frontier's Apps (cont'd)

- Frontier continually seeks to expand the availability of its content to make viewing as convenient as possible.
- Like other providers, Frontier has experienced an “app tax” when placing its app on third-party systems.
 - Upfront payments for preferable placements in the app store.
 - A portion of all revenues generated by consumers who make purchases through the app (e.g., a movie rental).

Free Rider Problem

- Companies with significant assets and resources seek to utilize the infrastructure of much smaller MVPD companies by:
 - Marginalizing MVPD customer relationships; and
 - Monetizing customer data.
- Market Caps:
 - Apple: \$557B
 - Google: \$504B
 - Amazon: \$339B
 - Frontier: \$6B



- Significant investment by Frontier in infrastructure and to negotiate rights to video packages.
- Large, well-capitalized companies free ride on smaller companies' investment and work.
- Regulatory scrutiny should be reserved for those instances where there is a market failure that harms consumers – a failure of choice, a failure of diverse content, a failure of competition – not to require smaller competitors to subsidize much larger competitors.

Extensive Set-Top Box Competition

- The record shows extensive set-top box competition.
- 3-4 providers in virtually every market (2 satellite, 1 cable, and often 1 telco), plus over-the-air and over-the-top alternatives.
- Congress passed 47 U.S.C. § 549 to promote the competitive availability of navigation devices at a time when cable had a monopoly on multichannel video programming.
 - Congress could not predict all of the facilities-based competition that has developed in the twenty years since the Act.
 - Indeed, Congress specifically included a sunset provision for when the current level of competition had developed.
 - Additionally, the bundled service offering is incredibly consumer friendly
 - Customers can purchase voice, broadband, and video content for a single price
 - Exactly the kind of market development that regulators hoped for as little as five years ago.
 - No other options for boxes and no apps.
- The record shows that almost all carriers, like Frontier, are actively launching apps to allow access to content on virtually any device.
- Frontier’s video interface, including its product guide and its video on demand service, is one of the key differentiating factors in competing with cable.
 - As Frontier’s CEO Dan McCarthy has explained, Frontier’s guide integrates over-the-top content, including Netflix, offering customers a “seamless experience” and creating a “very sticky product.”

Commission's Proposal Would Increase Consumer Costs

- Proposal would allow third-parties to:
 - Disaggregate video streams;
 - Remove and disrupt channel lineups; and
 - Insert their own advertising.
- Third-parties can and will disrupt underlying agreements.
 - Disrupted programming.
 - Increased costs.
 - Intellectual property agreements for TV Guide format and information.
 - Streaming rights.
 - Ultimately falls on consumers.
- Privacy – the proposal does not protect consumer privacy.
 - The FCC cannot enforce privacy rules as to third-parties.
 - Carriers cannot be required to police a privacy framework.
 - Once an MVPD shares the information for accessing its data streams with a third-party device manufacturer, there does not appear to be an easy way to prevent that third-party from continuing to access the data streams, even if it blatantly disregards privacy and copyright.
- Increased customer service costs.
 - Customers call the provider, not the equipment manufacturer, when programming doesn't work.
- Lack of legal authority injects uncertainty
 - It is unclear whether the Commission can unbundle software (i.e., apps) when the statute provides authority over "equipment"
 - Overhanging legal uncertainty will only harm consumers.

Apps Approach Avoids Pitfalls of Current Proposal

- Carriers are already launching apps, and the set-top box is in the process of disappearing.
- The Apps Approach:
 - Protects consumer privacy
 - Respects underlying content contracts
 - Preserves incentives for creating content
 - Avoids the free rider problem
 - Removes substantial legal uncertainty
 - Reduces Consumer Costs
 - Promotes competition