FCC asks for more public input on whether to let Charter impose data caps

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The Federal Communications Commission is taking another round of public comments on Charter's petition seeking permission to impose data caps on broadband users and charge network-interconnection fees to online-video providers, following a court ruling that may complicate the FCC's decision.

The deadline for comments on Charter's petition passed on August 6. But in a public notice issued today, the FCC said it is opening an additional comment period that will last until September 2, giving people time to weigh in on the impact of the court ruling.

"To ensure that the [Wireline Competition] Bureau has a full record upon which to evaluate the effects of the conditions, we initiate this additional comment period," the FCC notice said, while also inviting commenters to "address the effect" of the new court ruling on the FCC's consideration of Charter's petition. As before, comments can be submitted on the docket by clicking "New Filing" or "Express." There are more than 1,500 filings, mostly from consumers who object to data caps.

Court ruling lets Charter charge new fees

The ruling Friday by the US Court of Appeals for the District of Columbia Circuit eliminated a merger condition that required Charter to provide free network interconnection to large online providers until May 18, 2023. The Obama-era FCC imposed that and other conditions on Charter when it bought Time Warner Cable and Bright House Networks in 2016 with the goal of preventing business disputes that have a history of harming consumer-broadband performance when companies refuse to pay fees demanded by ISPs. But the Trump-era FCC under Chairman Ajit Pai chose not to defend the merits of the merger conditions in court, paving the way for the new ruling.

The ruling came two months after Charter petitioned the FCC to let the merger conditions banning data caps and network-interconnection payments expire two years early, in May 2021. That's the earliest date on which the conditions can be eliminated under the original terms of the merger approval. Friday's court ruling seems to render Charter's petition moot as far as the network-interconnection condition goes, but the FCC still has to at least decide whether to lift the data-cap prohibition.

Pai voted against the merger conditions when he was a commissioner but not yet the chairman, and now he has a chance to let Charter off the hook two years early. Even with the extra comment period, the FCC has plenty of time before the proposed May 2021 expiration date. Pai would likely try to push through a ruling on Charter's petition by the end of this year because a potential Joe Biden victory in the presidential election would give Democrats the FCC majority as early as January.

Charter is the second-biggest cable company in the United States after Comcast, and it offers service in 41 states under

the Spectrum brand name. Charter has said it doesn't "currently" plan to impose data caps or charge for interconnection, but the company recently tried to convince the FCC in a filing that home-Internet plans with data caps are "often popular" with broadband users.

In a filing on Friday, Charter confirmed that it has complied with the network-interconnection requirement. But with the court having vacated that merger condition, Charter could theoretically start asking online-video providers for payments even before the FCC issues its decision. Charter did not respond to a request for comment after Friday's court ruling.

Disclosure: The Advance/Newhouse Partnership, which owns 13 percent of Charter, is part of Advance Publications. Advance Publications owns Condé Nast, which owns Ars Technica.

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