Cable ISPs compare data caps to food menus: Don’t make us offer unlimited soup



“Commenters have clearly demonstrated how fees and overage charges, unclear information about data caps, and throttling or caps in the midst of public crises such as natural disasters negatively affect consumers, especially consumers in the lowest income brackets,” the filing said.

The groups said that “many low-income households have no choice but to be limited by data caps because lower priced plan tiers, the only ones they can afford, are typically capped.” Their filing urged the FCC to take action, arguing that federal law provides “ample rulemaking authority to regulate data caps as they are an unjustified, unreasonable business practice and unreasonably discriminate against low-income individuals.”

The filing quoted a December 2023 report by nonprofit news organization Capital B about broadband access problems faced

by Black Americans in rural areas. The article described Internet users such as Gloria Simmons, who had lived in Devereux, Georgia, for over 50 years.

“But as a retiree on a fixed income, it’s too expensive, she says,” the Capital B report said. “She pays $60 a month for fixed wireless Internet with AT&T. But some months, if she goes over her data usage, it’s $10 for each additional 50 gigabytes of data. If it increases, she says she’ll cancel the service, despite its convenience.”

Free Press: “inequitable burden” for low-income users

Comments filed last month by advocacy group Free Press said that some ISPs don’t impose data caps because of competition from fiber-to-the-home (FTTH) and fixed wireless services. Charter doesn’t impose caps, and Comcast has avoided caps in the Northeast US where Verizon’s un-capped FiOS fiber-to-the-home service is widely deployed, Free Press said.

“ISPs like Cox and Comcast (outside of its northeast territory) continue to show that they want their customers to use as much data as possible, so long as they pay a monthly fee for unlimited data, and/or ‘upgrade’ their service with an expensive monthly equipment rental,” Free Press wrote. “Comcast’s continued use of cap-and-fee pricing is particularly egregious because it repeatedly gloats about how robust its network is relative to others in terms of handling heavy traffic volume, and it does not impose caps in the parts of its service area where it faces more robust FTTH competition from FTTH providers.”

https://arstechnica.com/tech-policy/2024/12/cable-isps-compare-data-caps-to-food-menus-dont-make-us-offer-unlimited-soup/

US businesses will lose $1B in one month if TikTok is banned, TikTok warns



The US is prepared to fight the injunction. In a letter, the US Justice Department argued that the court has already "definitively rejected petitioners' constitutional claims" and no further briefing should be needed before rejecting the injunction.

If the court denies the injunction, TikTok plans to immediately ask SCOTUS for an injunction next. That's part of the reason why TikTok wants the lower court to grant the injunction—out of respect for the higher court.

"Unless this Court grants interim relief, the Supreme Court

will be forced to resolve an emergency injunction application on this weighty constitutional question in mere weeks (and over the holidays, no less)," TikTok argued.

The DOJ, however, argued that's precisely why the court should quickly deny the injunction.

"An expedient decision by this Court denying petitioners' motions, without awaiting the government's response, would be appropriate to maximize the time available for the Supreme Court's consideration of petitioners' submissions," the DOJ's letter said.

TikTok has requested a decision on the injunction by December 16, and the government has agreed to file its response by Wednesday.

This is perhaps the most dire fight of TikTok's life. The social media company has warned that not only would a US ban impact US TikTok users, but also "tens of millions" of users globally whose service could be interrupted if TikTok has to cut off US users. And once TikTok loses those users, there's no telling if they'll ever come back, even if TikTok wins a dragged-out court battle.

For TikTok users, an injunction granted at this stage would offer a glimmer of hope that TikTok may survive as a preferred platform for free speech and irreplaceable source of income. But for TikTok, the injunction would likely be a stepping stone, as the fastest path to securing its future increasingly seems to be appealing to Trump.

"It would not be in the interest of anyone—not the parties, the public, or the courts—to have emergency Supreme Court litigation over the Act's constitutionality, only for the new Administration to halt its enforcement mere days or weeks later," TikTok argued. "This Court should avoid that burdensome spectacle by granting an injunction that would allow Petitioners to seek further orderly review only if

necessary.”

https://arstechnica.com/tech-policy/2024/12/tiktok-asks-court-to-block-ban-ahead-of-scotus-appeal/

TikTok’s two paths to avoid US ban: Beg SCOTUS or woo Trump



“What the Act targets is the PRC’s ability to manipulate that content covertly,” the ruling said. “Understood in that way, the Government’s justification is wholly consonant with the First Amendment.”

TikTok likely to appeal to Supreme Court

TikTok is unsurprisingly frustrated by the ruling. In a statement provided to Ars, TikTok spokesperson Michael Hughes confirmed that TikTok intended to appeal the case to the Supreme Court.

“The Supreme Court has an established historical record of protecting Americans’ right to free speech, and we expect they will do just that on this important constitutional issue,” Hughes said.

Throughout the litigation, ByteDance had emphasized that divesting TikTok in the time that the law required was not possible. But the court disagreed that ByteDance being unable to spin off TikTok by January turned the US law into a de facto TikTok ban. Instead, the court suggested that TikTok could temporarily become unavailable until it’s sold off, only facing a ban if ByteDance dragged its feet or resisted divestiture.

There’s no indication yet that ByteDance would ever be willing to part with its most popular product. And if there’s no sale and SCOTUS declines the case, that would likely mean that TikTok would not be available in the US, as providing access to TikTok would risk heavy fines. Hughes warned that millions of TikTokers will be silenced next year if the appeals court ruling stands.

“Unfortunately, the TikTok ban was conceived and pushed through based upon inaccurate, flawed and hypothetical information, resulting in outright censorship of the American people,” Hughes said. “The TikTok ban, unless stopped, will silence the voices of over 170 million Americans here in the US and around the world on January 19th, 2025.”

https://arstechnica.com/tech-policy/2024/12/tiktoks-two-paths-

to-avoid-divestiture-beg-scotus-or-woo-trump/

Booking.com says typos giving strangers access to private trip info is not a bug



For Booking.com, it’s essential that users can book travel for other users by adding their email addresses to a booking because that’s how people frequently book trips together. And if it happens that the email address added to a booking is also linked to an existing Booking.com user, the trip is automatically added to that person’s account. After that, there’s no way for Booking.com to remove the trip from the stranger’s account, even if there’s a typo in the email or if auto-complete adds the wrong email domain and the user booking the trip doesn’t notice.

According to Booking.com, there is nothing to fix because this is not a “system glitch,” and there was no “security breach.” What Alfie encountered is simply the way the platform works, which, like any app where users input information, has the potential for human error.

In the end, Booking.com declined to remove the trip from Alfie’s account, saying that would have violated the privacy of the user booking the trip. The only resolution was for Alfie to remove the trip from his account and pretend it never happened.

Alfie remains concerned, telling Ars, “I can’t help thinking this can’t be the only occurrence of this issue.” But Jacob Hoffman-Andrews, a senior staff technologist for the digital rights group the Electronic Frontier Foundation, told Ars that after talking to other developers, his “gut reaction” is that Booking.com didn’t have a ton of options to prevent typos during bookings.

“There’s only so much they can do to protect people from their own typos,” Hoffman-Andrews said.

One step Booking.com could take to protect privacy

Perhaps the bigger concern exposed by Alfie’s experience beyond typos is Booking.com’s practice of automatically adding bookings to accounts linked to emails that users they don’t know input. Once the trip is added to someone’s account, that person can seemingly access sensitive information about the users booking the trip that Booking.com otherwise would not share.

While engaging with the Booking.com support team member, Alfie told Ars that he “probed for as much information as possible” to find out who was behind the strange booking on his account.

And seemingly because the booking was added to Alfie's account, the support team member had no problem sharing sensitive information that went beyond the full name and last four digits of the credit card used for the booking, which were listed in the trip information by default.

https://arstechnica.com/tech-policy/2024/12/booking-com-says-typos-giving-strangers-access-to-private-trip-info-is-not-a-bug/

Judge rejects Boeing plea deal that was opposed by families of crash victims



The compliance monitor is supposed to ensure that "Boeing implements a program designed to prevent and detect violations of US fraud laws," O'Connor wrote. Failing to retain a monitor

would violate Boeing's probation, but O'Connor said that Boeing wouldn't actually have to comply with the monitor's recommendations.

"[T]he plea agreement prohibits imposing as a condition of probation a requirement for Boeing to comply with the monitor's anti-fraud recommendations. Additionally, the independent monitor is selected by and reports to the Government, not the Court," O'Connor wrote.

O'Connor also rejected the deal on the grounds that "Boeing will have the opportunity to prevent the hiring of one of the six monitor candidates chosen by the Government," and "the Government will select the independent monitor 'in keeping with the Department's commitment to diversity and inclusion.'"

Judge opposes diversity provision

O'Connor said that Boeing's court briefs and its diversity policies suggest that "Boeing will exercise its strike of one of the Government's six chosen monitor candidates in a discriminatory manner and with racial considerations." O'Connor said he is also skeptical that the government will consider all possible monitors and choose one based solely on merit and talent.

"It seems fundamentally inconsistent for the Government to say 'in keeping with the Department's commitment to diversity and inclusion' means that the Government will not consider race," O'Connor wrote. "Otherwise, why would the Government represent to the Court in its briefing that the term 'diversity' in the plea agreement is 'generally consistent' with the 2021 Executive Order's definition, which explicitly *includes* race? Indeed, the Government must adhere to this Executive Order, and, consequently, that definition of 'diversity' controls what is required by the plea agreement."

"In a case of this magnitude, it is in the utmost interest of

justice that the public is confident this monitor selection is done based solely on competency," O'Connor also wrote. "The parties' DEI [diversity, equity, and inclusion] efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts."

https://arstechnica.com/tech-policy/2024/12/judge-rejects-boeing-plea-deal-that-was-opposed-by-families-of-crash-victims/

AT&T says it won't build fiber home Internet in half of its wireline footprint



AT&T planned to hit that milestone by 2025 but achieved it this year, she said. But as Johnson stressed, AT&T wants to get rid of copper in the remaining 500,000 square miles. "This is really good progress… however, without the full

discontinuance of services across an entire wire center geography, we’re unable to stop the maintenance, repair, and attack the more fixed infrastructure costs,” she said.

Copper network degrading

Johnson said that AT&T is “seeing declining reliability with storms and increased copper theft. Copper simply does not do well with water and flooding, and repairs are very labor-intensive.” State regulators have said the declining reliability is largely AT&T’s fault. Many copper lines deteriorated because AT&T failed to do maintenance that would prevent lengthy outages and other troubles, a 2019 investigation by California state regulators found.

As noted earlier, AT&T said it plans to have no customers using copper in half of its territory by the end of 2027. In the other half, where AT&T described a “fiber first” strategy, there will nonetheless be copper customers who won’t get a fiber upgrade and will have to stop using copper by the end of 2029, Johnson said.

AT&T plans to build lots of fiber in the more populated half, but “not every customer location will be reached with fiber in these areas and we will still serve some of the customers in these areas with wireless alternatives,” Johnson said. AT&T’s “plan is to have no customer using copper services in these wire center areas by the end of 2029.”

The biggest beneficiaries of AT&T’s copper retirement may be shareholders. Johnson said the old network is an energy hog and has $6 billion in annual expenses. “Overall, our legacy business is profitable today but the revenue declines are accelerating,” she said.

AT&T is selling copper after it is decommissioned and leasing out some unused central offices. “By targeting the complete customer transition in a wire center, with the least

profitable wire centers first, we are able to remove these geographic costs and really optimize margins as we move towards exiting copper services," Johnson said.

Besides the 45 million existing and planned fiber locations, AT&T said its total fiber footprint by 2029 will include another 5 million or so locations through Gigapower, a joint venture with Blackrock, and agreements with commercial open-access providers.

https://arstechnica.com/tech-policy/2024/12/att-says-it-wont-build-fiber-home-internet-in-half-of-its-wireline-footprint/

US recommends encrypted messaging as Chinese hackers linger in telecom networks



An unnamed FBI official was quoted in the same report as saying that phone users "would benefit from considering using a cellphone that automatically receives timely operating system updates, responsibly managed encryption, and phishing-resistant" multifactor authentication for email accounts, social media, and collaboration tools.

The FBI official reportedly said the hackers obtained metadata showing the numbers that phones called and when, the live phone calls of some specific targets, and information from systems that telcos use for court-ordered surveillance.

Despite recognizing the security benefits of encryption, US officials have for many years sought backdoors that would give the government access to encrypted communications. Supporters of end-to-end encryption have pointed out that backdoors can also be used by criminal hackers and other nation-states.

"For years, the security community has pushed back against these backdoors, pointing out that the technical capability cannot differentiate between good guys and bad guys," cryptographer Bruce Schneier wrote after the Chinese hacking of telecom networks was reported in October.

Noting the apparent hacking of systems for court-ordered wiretap requests, Schneier called it "one more example of a backdoor access mechanism being targeted by the 'wrong' eavesdroppers."

1994 surveillance law in focus

CISA issued a statement on the Chinese hacking campaign in mid-November. It said:

> *The US government's continued investigation into the People's Republic of China (PRC) targeting of commercial telecommunications infrastructure has revealed a broad and significant cyber espionage campaign.*

> *Specifically, we have identified that PRC-affiliated actors have compromised networks at multiple telecommunications companies to enable the theft of customer call records data, the compromise of private communications of a limited number of individuals who are primarily involved in government or political activity, and the copying of certain information that was subject to US law enforcement requests pursuant to court orders.*

The hacks raise concerns about surveillance capabilities required by a 1994 law, the Communications Assistance for Law Enforcement Act (CALEA), which requires "telecommunications carriers and manufacturers of telecommunications equipment design their equipment, facilities, and services to ensure that they have the necessary surveillance capabilities to comply with legal requests for information."

https://arstechnica.com/tech-policy/2024/12/us-recommends-encrypted-messaging-as-chinese-hackers-linger-in-telecom-networks/

Amazon secretly slowed deliveries, deceived anyone who complained, lawsuit says



In a statement to Ars, Amazon spokesperson Kelly Nantel said that claims that Amazon's "business practices are somehow discriminatory or deceptive" are "categorically false."

Nantel said that Amazon started using third-party services to deliver to these areas to "put the safety of delivery drivers first."

"In the ZIP codes in question, there have been specific and targeted acts against drivers delivering Amazon packages," Nantel said. "We made the deliberate choice to adjust our operations, including delivery routes and times, for the sole reason of protecting the safety of drivers."

Nantel also pushed back on claims that Amazon concealed this choice, claiming that the company is "always transparent with customers during the shopping journey and checkout process about when, exactly, they can expect their orders to arrive."

But that doesn't really gel with Schwalb's finding that even customers using Amazon's support chat were allegedly misled. During one chat, a frustrated user pointing out discrepancies

between DC ZIP codes asked if Amazon “is a waste of money in my zip code?” Instead of confirming that the ZIP code was excluded from in-house delivery services, the support team member seemingly unhelpfully suggested the user delete and re-add their address to their account.

“Amazon has doubled down on its deception by refusing to disclose the fact of the delivery exclusion, and instead has deceptively implied that slower speeds are simply due to other circumstances, rather than an affirmative decision by Amazon,” Schwalb’s complaint said.

Schwalb takes no issue with Amazon diverting delivery drivers from perceived high-crime areas but insists that Amazon owes its subscribers in those regions an explanation for delivery delays and perhaps even cheaper subscription prices. He has asked for an injunction on Amazon’s allegedly deceptive advertising urging users to pay for fast shipments they rarely, if ever, receive. He also wants Amazon to refund subscribers seemingly cheated out of full subscription benefits and has asked a jury to award civil damages to deter future unfair business practices. Amazon could owe millions in a loss, with each delivery to almost 50,000 users since mid-2022 considered a potential violation.

Nantel said that Amazon has offered to “work together” with Schwalb’s office “to reduce crime and improve safety in these areas” but did not suggest Amazon would be changing how it advertises Prime delivery in the US. Instead, the e-commerce giant plans to fight the claims and prove that “providing fast and accurate delivery times and prioritizing the safety of customers and delivery partners are not mutually exclusive,” Nantel said.

https://arstechnica.com/tech-policy/2024/12/amazon-secretly-slowed-deliveries-deceived-anyone-who-complained-lawsuit-says/

Judge again rejects the Elon Musk Tesla pay plan now valued at $101 billion



The new stockholder vote could shift the burden of proof, but only if the vote is “fully informed and uncoerced,” McCormick wrote. Shareholder Richard Tornetta, the plaintiff who launched the lawsuit that got Musk’s pay rescinded, “has demonstrated that the vote was not fully informed,” today’s ruling said.

The January ruling in which McCormick voided the pay package said the deal was unfair to shareholders and that most of the board members were beholden to Musk or had compromising conflicts. In Tesla’s subsequent request asking shareholders to re-approve the pay plan, the company said that a yes vote could “extinguish claims for breach of fiduciary duty by authorizing an act that otherwise would constitute a breach”

and correct “disclosure deficiencies” and other problems identified in the 2018 stock award.

“Tesla debuted the argument in the Proxy Statement, which described stockholder ratification as a powerful elixir that could cure fiduciary wrongdoing—not for those harmed by the wrongdoing, but for the wrongdoers. Tesla told stockholders that the Post-Trial Opinion got Delaware law wrong and that their vote would ‘fix’ it,” McCormick wrote.

But the claims in Tesla’s proxy statement are “materially false or misleading,” McCormick wrote today. “As discussed above, under Delaware law, ratification cannot be deployed post-trial to extinguish an adjudicated breach of the duty of loyalty,” and it “cannot cleanse a conflicted-controller transaction” without a full suite of required legal protections.

304 million Tesla shares

Musk’s pay plan would provide options to purchase nearly 303.96 million Tesla shares for $23.33 each, McCormick wrote. Tesla’s stock price soared in recent months and was at $357.09 today.

The plaintiff argued that the value gained by shareholders when the pay package was rescinded “equals the intrinsic value of the freed-up shares, which is the trading price, minus the exercise price, multiplied by the number of options,” McCormick wrote. The plaintiff came up with a value of $51 billion based on the $191.59 per-share closing price on the date of the January 2024 ruling. As previously noted, the latest Tesla price suggests the pay package could have been worth $101 billion to Musk.

https://arstechnica.com/tech-policy/2024/12/judge-again-rejects-the-elon-musk-tesla-pay-plan-now-valued-at-101-billion/

Elon Musk asks court to block OpenAI conversion from nonprofit to for-profit



OpenAI provided a statement to Ars today saying that “Elon’s fourth attempt, which again recycles the same baseless complaints, continues to be utterly without merit.” OpenAI referred to a longer statement that it made in March after Musk filed an earlier version of his lawsuit.

The March statement disputes Musk’s version of events. “In late 2017, we and Elon decided the next step for the mission was to create a for-profit entity,” OpenAI said. “Elon wanted majority equity, initial board control, and to be CEO. In the middle of these discussions, he withheld funding. Reid Hoffman bridged the gap to cover salaries and operations.”

OpenAI cited Musk's desire for Tesla merger

OpenAI's statement in March continued:

> *We couldn't agree to terms on a for-profit with Elon because we felt it was against the mission for any individual to have absolute control over OpenAI. He then suggested instead merging OpenAI into Tesla. In early February 2018, Elon forwarded us an email suggesting that OpenAI should "attach to Tesla as its cash cow," commenting that it was "exactly right… Tesla is the only path that could even hope to hold a candle to Google. Even then, the probability of being a counterweight to Google is small. It just isn't zero."*
>
> *Elon soon chose to leave OpenAI, saying that our probability of success was 0, and that he planned to build an AGI competitor within Tesla. When he left in late February 2018, he told our team he was supportive of us finding our own path to raising billions of dollars. In December 2018, Elon sent us an email saying "Even raising several hundred million won't be enough. This needs billions per year immediately or forget it."*

Now, Musk says the public interest would be served by his request for a preliminary injunction. Preserving competitive markets is particularly important in AI because of the technology's "profound implications for society," he wrote.

Musk's motion said the public "has a strong interest in ensuring that charitable assets are not diverted for private gain. This interest is particularly acute here given the substantial tax benefits OpenAI, Inc. received as a non-profit, the organization's repeated public commitments to developing AI technology for the benefit of humanity, and the serious safety concerns raised by former OpenAI employees regarding the organization's rush to market potentially

dangerous products in pursuit of profit.”

https://arstechnica.com/tech-policy/2024/12/elon-musk-asks-court-to-block-openai-conversion-from-nonprofit-to-for-profit/