## The Daily Dish

# April 28th Edition

**WILL RINEHART, DOUGLAS HOLTZ-EAKIN | APRIL 28, 2014**

Good Morning,

It is not impossible to get the administration to back down from a burdensome regulation. The FDA announced they would no longer be pursuing a new animal feed rule. From the FDA official blog: "We've heard from trade groups and members of Congress, as well as individual breweries raising concerns that FDA might disrupt or even eliminate this practice by making brewers, distillers, and food manufacturers comply not only with human food safety requirements but also additional, redundant animal feed standards that would impose costs without adding value for food or feed safety. That, of course, would not make common sense, and we're not going to do it." It is a rarity to find common sense playing a role in the rule making process.

Kaiser Health News and the Washington Post report 'Health Plans Scramble To Calculate 2015 Rates.' "With the results sure to affect politics as well as pocketbooks, health insurers are already preparing to raise rates next year for plans issued under the Affordable Care Act." One company has already spoken of possible double-digit increases. Although they are skeptical, insurers will be waiting for the final data profiles of the newly enrolled until releasing any hard figures.

***Eakinomics: The FCC and Net Neutrality Guest Authored by Will Rinehart, AAF Director of Technology and Regulation Policy***

According to reports that broke late last week, the Federal Communication Commission (FCC) will vote on new network neutrality rules at their upcoming May meeting. By all accounts, the rules will follow the "commercially reasonable" path laid out in the *Cellco* case to strike a delicate political and regulatory balance that both protects consumers and gives companies flexibility. Some have criticized the FCC for the choice by claiming that this new regulation doesn't go far enough. Yet, as the old adage goes, if everyone is a little unhappy, then an honest compromise has been struck.

The new standard is unlikely to see the jurisdictional court challenges that the FCC faced twice before. Since the Court found that the *Cellco* standard "left substantial room for individualized bargaining and discrimination in terms," it did not violate the common carriage "just and reasonable" standard that largely sunk the FCC's Open Internet rules in the *Verizon* case.

Although these rules are a step up from previous attempts at network neutrality, drawbacks still exist. Given the new power the agency has with Section 706, a standard like this could apply to most any business contract on the Internet, so the FCC needs to be clear just what kinds of business deals it intends to review. There is much to like in the new rules as it will likely protect consumers and allow for innovative products to come to market. Hopefully, it will settle network neutrality once and for all, and free up the FCC's attention so work can focus on vitally important issues, like the upcoming spectrum auctions.