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Martin's March: FCC Goes Forward with Tough `Pretexting" Rules

Despite strong opposition from the cable industry, the **FCC** late Mon beefed up its phone privacy rules in response to the **Hewlett-Packard** board investigation scandal that unfolded late last year (***Cfax***, *10/18*). In that case, members of H-P's board allegedly used "pretexting"—the use of false pretenses to gain an individual's phone records—in order to determine who on the board was leaking information to the press. The FCC's new safeguards, which apply to VoIP providers as well as traditional common carriers, require carriers to get express consent before disclosing customer data to third parties. "The former 'opt-out' approach to customer consent, whereby a carrier may disclose a customer's phone records provided that a customer does not expressly withhold consent to such use, shifted too much of the burden to consumers, and has resulted in a much broader dissemination of consumer phone records," said FCC chmn *Kevin Martin*. "The 'opt-in' approach adopted in this order clearly is supported by the record, is consistent with applicable law, and directly advances our interest in protecting customer privacy." NCTA, which has opposed standardized pretexting rules as counterproductive, costly and too confusing for consumers, wasn't commenting at presstime as it was still studying the order. Several MSOs also opposed the pretexting rules during the comment process. Other new FCC requirements in the order include: carrier authentication requirements that bar carriers from releasing a customer's phone records unless the customer provides proof of identity such as a password; notification requirements to inform customers when account changes are requested or to alert them to an account breach; an annual certification program requiring carriers to disclose consumer complaints and actions taken against data brokers. The Commission also sought comment on what additional steps, if any, it should take. Democratic commissioners *Jonathan Adelstein* and *Michael Copps* dissented in part, citing provisions allowing the authorities to delay notifying customers of a breach while an investigation is ongoing. "As some have described it, it is akin to not telling victims of a burglary that their home has been broken into because law enforcement needs to continue dusting for fingerprints," said Copps.

Deals: **Comcast** and **Insight** struck a deal to divvy up their Insight Midwest partnership (a 50-50 venture). The pact would give Comcast 100% control of systems serving IL subs in Rockford/Dixon, Quincy/Macomb, Springfield, Peoria and Champaign/Urbana, and IN customers in Bloomington, Anderson, and Lafayette/Kokomo. Insight would take 100% of the cable systems serving KY customers in Louisville, Lexington, Bowling Green and Covington, and customers in Evansville, IN, and Columbus, OH. Comcast's systems would pass approx 1.2mln homes and generate some $290mln in cashflow, while Insight's systems would pass 1.3mln homes. Meanwhile, Comcast and Insight would take on $1.34bln and $1.26bln of partnership debt, respectively. The transaction is expected to close by year-end. **Sanford Bernstein**'s *Craig Moffett* called the definitive agreement a "clear positive" for both sides, noting its accretive nature, the "high quality" systems involved, and the properties' nice fit into each MSO's respective clus-

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ters. He also said that because of the way the **FCC** calculates cable subscribers, one added bonus of the deal for Comcast is that it lowers the MSO's sub count by 640K subs in the FCC's eyes—just as the agency mulls imposing a 30% subscriber cap.

Pitcher's Duel: Even as America's team, the NY Yankees, won its season opener Mon, cable has yet to emerge victorious from negotiations to offer out-of-market contests of America's pastime. This doesn't, however, signify a loss in the books just yet. **MLB** formally agreed Sat to extend negotiations with cable and **EchoStar** at least 1 additional day, but talks continued Mon as **Comcast** rainmakers were reportedly called in to seal a deal. **InDemand**, Comcast, MLB and **Time Warner Cable** either could not be reached or declined comment before press time. Joining baseball fans in awaiting news is Sen *John Kerry*, who last week brokered assent from all parties involved to hammer out a pact and again Mon made a call to the bullpen for relief. "Many fans are now denied access to their favorite team because executives haven't resolved relatively minor business differences. That is wrong," said Kerry in a statement. "I want to see an agreement that is good for fans and consumers."

Competition: **Verizon** introduced a pair of discounted HSI service plans, including an introductory $20/month price for speeds up to 3 Mbps when ordered online. The telco also launched a $10/month premium tech support option for residential and business customers, offering expert help for problems including spyware, adware, and others not typically covered by many Internet providers' standard support services. -- **DirecTV** appointed former **Adelphia** exec *Ellen Filipiak* svp, customer service. -- **Verizon** added **NESN HD** to its FiOS TV channel lineup in the Boston area.

Bittersweet Vyyo: Broadband access equipment vendor **Vyyo** inked a deal to provide its 3GHz taps and passive network elements to **Cox**, which enables the MSO to add Vyyo' Spectrum Overlay products in the future. But the news apparently wasn't good enough to beat back the Wall Street bears, who hammered Vyyo's stock Mon after it announced a net loss of $6.5mln in 4Q. Its stock ended the day at $7.68, down 6.5% .

WWE Alters 3 Tops: No doubt lured by the chance to see either *Vince McMahon* or *Donald Trump* have his coiffure clipped (the Donald kept his do), more than 80K fans watched live Sun's **WWE** "WrestleMania 23" at Ford Field in Detroit. This set an attendance record for the venue and helped contribute $5.38mln in gross ticket sales, the highest for a 1-day live event in WWE history—both of which likely helped assuage McMahon over the loss of his hair. Or at least he earned enough coin to buy a suitable wig.

More Changes Looming?: **Discovery** isn't commenting on press reports that it will announce significant layoffs in the next few weeks as part of a larger restructuring initiative. New pres/CEO *David Zaslav* spearheaded sweeping structural changes in Feb, but they resulted in only a few senior execs exiting the company (***Cfax***, *2/8*). Industry observers have long expected a 2nd round that could reach further down the ranks.

Programming: The 4th season of **A&E**'s "Dog the Bounty Hunter" begins Tues (9pm) and will feature Dog and his crew's legal proceedings in Mexico. -- 3 girlfriends challenge each other to engage in wild stunts in **fuse**'s "Rad Girls" (Apr 24). -- "American Idol" alum *Kellie Pickler* reflects on her show and life experiences in **GAC**'s "Academy of Country Music and GAC Present: Kellie Pickler" (Mon, 8pm ET).

BETN Hires: **BET Networks** announced the addition of 3 new execs to its senior team to bolster its original-content and

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digital expansion strategy: **AOL**-er *Janet Rollé* joins BETN on Apr 16 as evp and CMO; *Jeanine Liburd*, who most recently served in corporate communications at **Viacom**, becomes svp, communications and public affairs on Apr 9; and *Alvin Bowles* also joins Apr 9 as svp, integrated marketing. He also joins BET Networks from AOL. All 3 will report directly to BETN chmn/CEO *Debra Lee*.

On the Circuit: **NAB**'s national exhibition (Apr 14-19. Las Vegas) will feature a special address by **FCC** chmn *Kevin Martin.*

People: **TV Guide Channel** appointed former **CBS** exec *Megan Costello* vp, research. -- **ESPN** vet *James Brown* was tapped as svp, new program development, a new post responsible for supporting ESPN's college programming and distribution efforts and the oversight of its cross-platform high school initiatives. -- *Jennifer Barendrecht* was promoted to ad sales manager, west coast, **Turner**.

Business/Finance: As part of real estate mogul *Sam Zell*'s $315mln investment to help take the media conglomerate private, **Tribune Co** said it will put both the Chicago Cubs and its 25% stake in **Comcast Sportsnet Chicago** up for sale after the '07 MLB season. -- **Comcast Interactive Capital** led 3 others including **JPMorgan Partners** in adding $11mln in Series B funding to open-source networking firm **Vyatta**. As part of the financing, CIC has joined the Vyatta board.

CableFAX Daily Stockwatch

Company	04/02 Close	1-Day Ch
BROADCASTERS/DBS/MMDS		
BRITISH SKY:	44.88	0.08
DIRECTV:	22.94	(0.13)
DISNEY:	34.47	0.04
ECHOSTAR:	43.54	0.11
GE:	35.29	(0.07)
HEARST-ARGYLE:	27.31	0.12
ION MEDIA:	1.31	(0.02)
NEWS CORP:	24.76	0.29
TRIBUNE:	32.81	0.70
MSOS		
CABLEVISION:	30.79	0.36
CHARTER:	2.79	0.00
COMCAST:	25.74	(0.21)
COMCAST SPCL:	25.33	(0.14)
GCI:	13.71	(0.29)
KNOLOGY:	16.04	0.21
LIBERTY CAPITAL:	109.44	(1.15)
LIBERTY GLOBAL:	33.34	0.41
LIBERTY INTERACTIVE:	23.47	(0.35)
MEDIACOM:	8.20	0.06
NTL:	28.22	0.00
ROGERS COMM:	32.91	0.15
SHAW COMM:	36.71	(0.21)
TIME WARNER CABLE:	37.05	(0.42)
WASH POST:	759.50	(4)
PROGRAMMING		
CBS:	30.78	0.19
CROWN:	5.18	(0.15)
DISCOVERY:	19.35	0.22
EW SCRIPPS:	44.80	0.12
GRUPO TELEVISA:	30.50	0.70
INTERACTIVE CORP:	37.21	(0.5)
LODGENET:	30.48	(0.24)
NEW FRONTIER:	9.14	0.14
OUTDOOR:	10.23	0.01
PLAYBOY:	10.18	(0.11)
TIME WARNER:	20.07	0.35
UNIVISION:	36.23	0.00
VALUEVISION:	12.68	0.32
VIACOM:	41.02	(0.04)
WWE:	16.23	(0.07)
TECHNOLOGY		
3COM:	3.90	(0.01)
ADC:	16.87	0.13
ADDVANTAGE:	3.42	0.00
ALCATEL LUCENT:	11.86	0.04
AMDOCS:	36.03	(0.45)
AMPHENOL:	32.84	0.56
ARRIS GROUP:	14.08	0.00
AVID TECH:	35.97	1.09
BLNDER TONGUE:	2.34	0.39
BROADCOM:	32.57	0.50
C-COR:	14.00	0.14
CISCO:	25.40	(0.13)
COMMSCOPE:	42.19	(0.71)
CONCURRENT:	1.48	(0.09)
CONVERGYS:	25.63	0.22
CSG SYSTEMS:	24.99	(0.03)
GEMSTAR TVG:	4.16	(0.03)
GOOGLE:	458.53	0.37
HARMONIC:	9.82	0.00
JDSU:	15.08	(0.15)
LEVEL 3:	6.07	(0.03)
MICROSOFT:	27.74	(0.13)
MOTOROLA:	17.56	(0.11)
NDS:	50.35	0.41
NORTEL:	24.30	0.25
OPENTV:	2.52	0.07
PHILIPS:	38.05	(0.05)
RENTRAK:	15.45	(0.18)
SEACHANGE:	8.00	(0.14)
SONY:	49.85	(0.64)
SPRINT NEXTEL:	19.30	0.34
THOMAS & BETTS:	48.13	(0.69)
TIVO:	6.33	(0.02)
TOLLGRADE:	12.67	0.11
UNIVERSAL ELEC:	28.95	1.09
VONAGE:	3.58	0.13
VYYO:	7.68	(0.53)
WEBB SYS:	0.05	0.00
WORLDGATE:	0.67	(0.03)
YAHOO:	31.28	(0.01)
TELCOS		
AT&T:	39.45	0.02
QWEST:	8.99	0.00
VERIZON:	37.83	(0.09)
MARKET INDICES		
DOW:	12382.30	27.95
NASDAQ:	2422.26	0.62

Symonds Says...

OK, I admit it. I'm not one to go seeking out the *Harvard Business Review*. And it's not like I have the latest issue on hand for extended bathroom reading.

But thanks to the *New York Times*, I did stumble upon a recent series of articles in the HBR that piqued my interest. They were packaged under the umbrella name, "Leading Creative People" and dealt with the unique challenges of effectively managing people who are, most likely, more creative than their bosses.

Curtis Symonds

And while I didn't read the pieces in their entirety, and indeed only saw excerpts, they really did get me thinking. After all, ours is an industry built on creativity, especially on the content side, and I wondered just how many of our managers are capable of the deft touch required to get the most out of such people.

That's a compelling issue in this age of impermanence when companies, and even entire industries, can dry up because some revolutionary idea rendered them obsolete. With the stakes so high, the marketplace so dynamic and the workplace so volatile, how do you manage the people capable of producing breakthrough ideas; people whose value to the company can be, at times, immeasurable?

I found one of the articles particularly interesting in that it involved exhaustive interviews with a number of creative people. Written by Rob Goffee and Gareth Jones, "Leading Clever People" makes no bones about the difficulty of the task. As they write, "If clever people have one defining characteristic, it is that they do not want to be led."

And make no mistake: Many employees consider themselves creative. Indeed, I might argue, just as Thoreau wrote, that most men lead lives of quiet desperation. And my sense is most men, even the most plodding, also think of themselves as creative. But in truth, only a handful of employees have the unique collection of skills, wisdom and out-of-the-box thinking capable of creating revolutionary value for a company.

And while this article has a lot of obvious, wash-behind-your-ears and brush-your-teeth-everyday type of stuff, it also offers some unique perspectives. Such as this nugget: when you manage creative people well, they'll not even know you're doing it. And even if they do recognize your leadership, they'll most likely not acknowledge it, and they'll never thank you for your role in their success.

"Remember," the authors write, "these creative individuals feel that they don't need to be led." Now, as I said earlier, the ability to manage creative people is important on the content side of this industry. That's a given. But as I was reading I found myself thinking more about our MSO companies.

Our programmers and vendors have always faced dog-eat-dog competition; they're used to someone plotting their destruction. Ho-hum, another day, another competitor. But for the MSOs, this is a fairly new reality. Because, while DBS and the telcos have been trying to get subscription TV right for a generation or so, only recently has their institutional knowledge and technical prowess started to match their financial muscle.

Not only that, but as digital products increase the demands on both the MSO networks and their bandwidth capability, their need for creative thinking is now greater than ever. Throw in the fact that more and more MSOs are becoming national programmers (welcome to the club, Cox) and you could make a strong case that for the first time in the history of this industry, there is a greater need for creative types on the distribution side of the business than on the content side.

I offer no advice, other than perhaps to go online, pay the 17 bucks and download these 3 articles. Because, especially if you're an MSO, Symonds says it may just be time to upgrade the quality of your bathroom reading.

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