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ACA's Polka: Net Neutrality is a Battle We Have to Win

A day after **ACA** filed a lawsuit challenging the **FCC**'s net neutrality order, the association's chief described the move as "something we don't normally do." Speaking before attendees at the **Broadband Cable Assn of PA**'s annual Cable Academy in Harrisburg Wed, ACA pres/CEO *Matt Polka* said the group had to act because of the disproportionate impact the rules will have on members. "As a matter of principle, it was important to take this stand," he said. "This is a battle we have to win." **NCTA**, **CTIA**, **AT&T** and **USTelecom** have also filed petitions in the DC Circuit challenging the rules. Cable Academy attendees, many of whom hail from smaller operators in PA, had questions about what's ahead, including whether they may face the higher telecom rate for pole attachments. One member of the audience piped up that there's sometimes a $10 difference per pole in his footprint. **Kelley Drye** partner *Tom Cohen*, an attorney who works with ACA, said the FCC has "wagged its fingers" at utilities and dared them to raise raises, suggesting they may do something if pole owners do. "In the meantime, you may receive a bill on June 11 or so [when the net neutrality rules go into effect]" he said, adding that ACA is considering filing a petition to stay the order. Polka said ACA members have been living by open Internet principles since 2005. "Something that has troubled me quite a bit is the language [FCC chmn *Tom] Wheeler* used to illustrate you as an ISP as a 'gatekeeper.' I know our members. They are not gatekeepers. They are not blocking," he said. "To be called a gatekeeper to justify regulation, in my view, is completely disrespectful." *Michael Hain,* gm & CTO of **Nittany Media** in Lewistown, PA, chimed in, describing how the operator has rolled out faster networks to schools in the communities it serves. "We're not gatekeepers. We're enablers," he said, describing how all but 1 of the communities Nittany serves don't charge it regulatory fees because of the value it provides. Much of the conference focused on OTT, both the threat and opportunity. Could Nittany ever decide to go completely OTT for video? "We don't rule anything out," Hain said (earlier, he noted that the operator has raised rates $14 in the past 12 months all for programming expenses, and it still is a nickel short of covering the increased costs). It's with that in mind that ACA has weighed in on the FCC's proposal to classify online video distributors as MVPDs. The assn's position is that the FCC "can't give [OVDs] all the rights if they don't have all the responsibilities as well," Cohen said. On the flipside, if ACA members want to be in the OTT business in some way, "you shouldn't be treated differently from other OTT providers."

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BCAP Notebook: *Gerard Kunkel*, a former **Comcast** exec who now is a media consultant, didn't sugarcoat it. "Your video business is very much in threat," he told attendees at **BCAP**'s Cable Academy. He showed an example of watching an NFL game on the Xbox One, which offers additional video clips, customized fantasy league information, etc. "Could cable do this? Probably. Would you want to invest what **Microsoft** did to get there? I'm not so sure," he said, suggesting it might make more sense for operators to partner with Microsoft and others to create the right user experience. "If anyone thinks people just want to watch TV on a TV screen, that answer is probably an indication of your age," said Kunkel. More evidence of the threat can be found in a recent **Re/Code** article that said **Apple** is slashing its 30% app monthly publishing fees to 15% for those that offer services on Apple TV. Throw in this week's report by **Accenture** that found viewership for long-form content on a TV screen has declined by 13% globally over the past year and 11% in the US, and you have even more reason to be concerned. Kunkel predicts that we'll rapidly see OTT service integrated into cable offerings. His advice: recognize the changes in behavior, study the research out there, anticipate that consumers want (and expect) any content on any device at any time and explore partnerships with streaming device vendors, such as **TiVo**. -- Best wishes to BCAP pres *Dan Tunnell*, who missed the start of the assn's 27th annual Cable Academy because of pneumonia. Get well soon! -- Why should operators transition to video over IP? **Arris** senior solutions architect *Steve Parsons* said unicast has its good points but that IPTV's multicast offers major bandwidth savings over unicast. Consider a subscriber group of 250 homes, with an average of 2.5 television sets per home. With so many of those homes viewing the same programming at peak viewing hours, multicast could deliver that video using 520 mbps vs 1.2 Gbps for a pure unicast model (one programming stream to each home). Other advantages include competitive pressures (consumers have to be able to watch programming on every device), the ability to offer flexible advertising. His advice for operators launching IP is to start small and grow on their own terms, perhaps deploying IP or a hybrid to limited homes at first. "IPTV is an evolution, not a revolution," Parsons said.

Netflix 1Q: **Netflix** shares were up by more than 12% in after hours trading following its 1Q earnings results late Wed. The company surpassed 40mln US subs, 20mln international, and 60mln in total subs in the quarter. Subs streamed 10bln hours in the period. It added a record 4.9mln new subs globally in 1Q, against its forecast of 4.1mln and prior year of 4mln. In the US, it gained 2.3mln new members, above its previous expectation of 1.8mln because it acquired and retained more members than forecast. Internationally, it added 2.6mln subs versus a forecast of 2.25mln thanks to stronger than expected growth across several markets. Net income suffered because of currency-related transaction losses included in other expenses, whose exclusion would have driven earnings per share to $0.77 versus $0.38. Moving forward, the company will increase its spending on promotion of its original content. It's also spending more of its marketing dollars online. "This allows us to more finely target audiences and to deliver the right marketing message to the right person at the right time, particularly on mobile devices," the company said in a letter to investors. The company plans to upgrade its TV user interface in the second half of 2015, bringing video playback into the browse experience. "We are also developing improved ways to promote Netflix originals to our members, using our data to help identify which members would be most likely to enjoy each original title." Netflix doesn't see **HBO**'s standalone OTT service HBO Now as a competitor: Netflix and HBO "are not substitutes for one another given differing content." In addition, streaming services such as **Sony**'s Playstation Vue and **DISH**'s Sling TV are more competitive to the pay-TV bundle than to Netflix, according to the company.

Wheeler at NAB: **FCC** chmn *Tom Wheeler* compared the Commission's broadcast "must carry" rules to the agency's Open Internet Order during his keynote at the NAB Show Wed. "I know broadcasters have always been concerned about gatekeepers. The must carry rules are a manifestation of that concern. It was that kind of sensitivity that has led us to focus on maintaining an open Internet. And now that we have produced an Open Internet Order, I hope that you will see in it something important to maintaining your service to the American public, as well as your ability to expand that capability in a continually evolving network environment," according to his prepared remarks. The Title II net neutrality order "safeguards an increasingly important distribution channel for your most important product—local news and information. It assures that your use of the Internet will be free from the risk of discrimination or hold up by a gatekeeper. Again, I liken this to the concept behind must carry—updated for the 21st century," Wheeler said. He urged the broadcasters to support the rules. "Your goals as an important and innovative public service provider and our Open Internet goals are the same: when you want to offer something over the Internet, no one should stand in your way. Least of all, no one should stand between you and the consumers who will benefit from your service. I believe, by the way, this is equally applicable for both radio

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and television." Wheeler noted while pay-TV sub base was down while broadcast-only and OTT video use were up. And people have been pairing an over-the-air antenna with OTT services. "I expect that we also will see more broadcast channels incorporated into OTT service offerings," he said.

House Commerce OKs Data Breach Bill: **House Commerce** approved the Data Security and Breach Notification Act Wed. Co-sponsored by House Commerce vice chair *Marsha Blackburn* (R-TN) and *Peter Welch* (D-VT), it would require entities to protect personal info and inform individuals of any data breach, among other things. The House will now take up the bill.

People: **Layer3TV** added content industry vets *Lynne Costantini* and *Sean Riley* to its content advisory board. The move came after the "next generation" cable operator tapped former **Fox** exec *Lindsay Gardner* as chief content officer. Costantini is pres of business development at **TheBlaze**, while Riley was most recently **Fox Network**'s svp of distribution and marketing. He was also a part of the original **Hulu** launch team. -- **Univision** tapped *Mark Lopez* as evp/gm, **Univision Digital,** effective May 1. He will report to *Issac Lee*, pres of News and Digital for Univision and CEO of **Fusion**. -- 24-hour network **RIDE TV** tapped industry vet *Michael Trujillo to* head its distribution domestically and internationally. He was most recently vp of distribution at **MAVTV**.

Cablefax Daily Stockwatch

Company	04/15 Close	1-Day Ch
BROADCASTERS/DBS/MMDS		
DIRECTV:	87.60	0.50
DISH:	69.85	0.05
ENTRAVISION:	6.66	0.18
GRAY TELEVISION:	14.03	0.34
MEDIA GENERAL:	16.59	0.44
NEXSTAR:	58.81	0.79
SINCLAIR:	31.62	0.50
MSOS		
CABLEVISION:	18.45	0.15
CHARTER:	189.91	(0.98)
COMCAST:	59.91	0.94
COMCAST SPCL:	59.49	0.91
GCI:	16.36	0.09
GRAHAM HOLDING:	1032.28	(0.31)
LIBERTY BROADBAND:	55.51	(0.04)
LIBERTY GLOBAL:	51.24	(0.31)
SHAW COMM:	22.08	(0.41)
SHENTEL:	35.47	0.40
SHENTEL:	35.47	0.40
TIME WARNER CABLE:	159.02	2.16
PROGRAMMING		
21ST CENTURY FOX:	34.04	(0.07)
AMC NETWORKS:	77.02	(0.24)
CBS:	61.66	0.16
CROWN:	3.93	0.03
DISCOVERY:	33.38	0.44
DISNEY:	106.98	0.32
GRUPO TELEVISA:	35.48	0.38
HSN:	64.87	(0.33)
LIONSGATE:	31.01	(0.11)
MSG:	83.15	(0.03)
SCRIPPS INT:	69.44	(0.13)
STARZ:	37.55	0.48
TIME WARNER:	84.93	0.53
VIACOM:	70.82	1.05
WWE:	13.61	0.06
TECHNOLOGY		
ADDVANTAGE:	2.38	(0.08)
AMDOCS:	55.18	0.64
AMPHENOL:	59.22	0.29
AOL:	39.81	0.82
APPLE:	126.78	0.48
ARRIS GROUP:	29.74	0.48
AVID TECH:	16.19	(0.1)
BLNDER TONGUE:	0.82	(0.04)
BROADCOM:	45.10	0.97
CISCO:	28.25	0.44

Company	04/15 Close	1-Day Ch
COMMSCOPE:	26.64	0.12
CONCURRENT:	6.09	0.06
CONVERGYS:	22.98	0.02
CSG SYSTEMS:	30.63	(0.22)
ECHOSTAR:	51.86	0.38
GOOGLE:	532.53	2.14
HARMONIC:	7.35	(0.04)
INTEL:	32.83	1.34
INTERACTIVE CORP:	72.05	0.25
JDSU:	13.52	0.33
LEVEL 3:	53.14	0.32
MICROSOFT:	42.26	0.60
NETFLIX:	475.46	(3.25)
NIELSEN:	45.42	(0.58)
RENTRAK:	52.47	1.04
SEACHANGE:	6.66	0.01
SONY:	31.75	0.62
SPRINT NEXTEL:	5.04	0.05
TIVO:	11.11	0.14
UNIVERSAL ELEC:	58.64	0.18
VONAGE:	4.91	0.05
YAHOO:	45.73	0.20
TELCOS		
AT&T:	32.89	0.20
CENTURYLINK:	36.19	0.51
TDS:	26.97	0.17
VERIZON:	49.39	0.21
MARKET INDICES		
DOW:	18112.61	75.92
NASDAQ:	5011.02	33.73
S&P 500:	2106.63	10.79

Think about that for a minute...

Consumer Woes

Commentary by Steve Effros

Pity the poor consumer. Things are going to get almost impossibly complicated in the telecommunications and entertainment marketplace in the next few years as the long-called-for "competition" rages. The average consumer is going to be the one likely to plead for relief when it's all over.

Here's the reality we are looking at; you will get small bills, hidden within bigger bills for virtually all your home video delivery. Your "cable" bill will go down, or maybe you'll "cut the cord" and not buy a cable package at all (...a side note here, while that may be the "future," the reality today is the "cord cutters" are a remarkably small percentage of the total audience, despite all the headlines). But anyway, those starting to use "OTT" more heavily—and that's lots of us—are using it additively. That is, we're buying both the package and the add-ons, not either-or.

So where does that leave us? Well, the ever-longer credit card bill has stuff buried in it as monthly fees for a music service like Spotify, and a TV service like CBS, Hulu and Vudu and of course a premium service like HBO and another one like Netflix. Oh, and if you want a good user interface you pay another fee to TiVo. All these fees, of course, just show up every month on the "big bill." They are recurring until you cancel them, and some of them you have forgotten you even started paying for! They probably offered you a "free" trial a long time ago. You may not have read the small smudged print at the bottom of the page saying the recurring billing would start in a month or two.

Yes, we should all be expected to go over our "big bill" carefully to make sure we know what all the charges are each month. We're also supposed to be able to read and understand the bill for our cell service. Want to bet how many people actually do? Anyway, that lengthy bill, we know, leaves out some stuff. If you look at all the press about Sling TV, for instance, you will constantly see that it is a "service" competing with "cable," and it costs $20! You virtually never see a linked sentence that mentions that's the cost without delivery. You have to pay your own delivery costs, and that's your broadband bill, which will inevitably go up as demand and use rises. The average consumer is not going to have a clue how much they are really paying for all this stuff.

And it gets even more complicated when they realize that if they want to see both of the most talked-about programs, they will have to buy two different services. And if they want the neat new idea, for instance, that Amazon is offering with a link between the movies and the iMDB data base so you can find out, while watching the movie, who the heck that actor is whose name is on the tip of your tongue, you will have to have a specific piece of equipment (theirs), and you will have to be watching that movie from their service, not the same movie from another vendor.

Now we can all cheer that these new services are going to advance the cause of creativity (more competitive exclusive programming) and services (new exclusive navigation, information, and personally targeted material.) But at the end of the day, is the consumer going to be happy, or just frustrated and confused? I'm betting the latter.

Steve

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