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What the Industry Reads First

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State of Freedom: Policy Wonks Debate Wheeler's Privacy Plans

A day after FCC chmn *Tom Wheeler* faced tough questions about the agency's policies, two Commissioners on opposite sides of the political spectrum gave their views on life at the agency these days. While there have been an increasing number of 3-2 decisions, Republican *Michael O'Rielly* told attendees of the **Free State Foundation's** annual Telecom Policy conference that his personal relationships are "good, fine, healthy." As for why he's often in the minority, it boils down primarily to the agenda Wheeler has put forward and the processes that underlie those items, he said. Democrat *Mignon Clyburn* told the free market think tank that personally, "she's not as comfortable," but that "professionally, I try to rise above it." One of those divided decisions is likely to come next week when the FCC votes on Wheeler's privacy proposal for ISPs. Clyburn quickly rejected the idea that the FCC is duplicating privacy efforts from the **FTC**, saying that the other agency is not a rulemaking authority. She said the FTC works with other agencies, including Dept of Education and Health and Human Services, in privacy matters. "This is a complementary relationship that I believe when done right strengthens protections," Clyburn said. It's not just O'Rielly and ISPs that have concerns with Wheeler's plan. In a keynote at the conference, FTC commish *Maureen Ohlhausen* suggested the FCC's action be reserved for practices that consumers overwhelmingly disfavor. She compared the privacy proposal to the creation of the Do Not Call telemarketing registry. One of the differences between that popular concept and the privacy rules on the table is that Do Not Call "treats all commercial telemarketers the same, regardless of industry segment," she said. "In contrast, the FCC proposal applies to just one segment of the Internet ecosystem, broadband ISPs, even though there is good evidence that ISPs are not uniquely privy to your data." During another FSF panel, **NCTA** chief *Michael Powell* took the argument that services are be treated differently even further. "You can't describe the parade of horrors with data collection... while ignoring the same level of behavior that takes place on every other digital experience," he said, adding that a consumer is not going to have a different privacy expectation from **Comcast** as an ISP than it does **Facebook**. "It is going to mislead consumers. If they opt out in one instance... [they'll believe] that they are protected on the Internet [completely]," said **US Telecom Assn** pres/CEO *Walter McCormick*. Last week, **Moody's Investors Services** said the proposal was a "credit-negative" in that ISPs could be "severely handicapped" in competing with digital advertisers such as **Google** or Facebook. Powell dis-

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missed the notion that ISPs need special privacy regulation because consumers have more choice over whether to use a service like Facebook. "Can you choose to disconnect from every digital property?" he asked.

Powell's Soap Box: Err, make that set-top box. The NCTA head warned he would be long-winded when asked at the Free State Foundation conference about the pending FCC NPRM that aims to open up the set-top box to third parties. "This proceeding perfectly encapsulates concerns about unjust market engineering and intervention" by the Commission, NCTA chief *Michael Powell* said. His lengthy list of complaints include that the agency is intervening in a well-functioning market that has seen huge shifts, with cable losing more than 50% of its market share in recent years. "The market is on fire," he said, pointing the launching of streaming services and boxes such as **Apple TV** and **Roku**. Cable acknowledges a role for 3rd party equipment, but the FCC is creating an entirely new video service with the proceeding, he said. "It's just a rent transfer, pure and simple. It really does pick winners and losers," Powell said.

Charter Merger: Wednesday marks day 179 of the FCC's 180-day shot clock on the **Charter/Time Warner Cable** merger review. In a letter to Attorney General *Loretta Lynch* and FCC chmn *Tom Wheeler* Wed, 4 House Democrats, *Marc Veasey* (TX), *Joyce Beatty* (OH), *Terri Sewell* (AL) and *Gregory Meeks* (NY) offered their support for the merger. Citing Charter's commitments to create jobs, expand broadband to low-income communities, the lawmakers said the combined company will "continue to raise standards across the country."

Comcast Promotions: Comcast announced a series of promotions to vp in its Corporate Strategy, Global Risk Management, Corporate Communications, Legal Regulatory Affairs and Corporate Affairs departments. In corporate strategy, *Jon Friedman* was tapped to be vp of strategic and financial planning. Prior to joining Comcast, he spent nearly 7 years as a principal at the **Boston Consulting Group**. *Ashton White* is the new vp of strategic and financial planning. She was previously vp of financial planning and analysis for **Comcast Cable**. *Donald Aspinall* is the new vp of global risk management. In corporate communications, *John Demming* was promoted to vp of corporate and financial communications while *Kirsten Siegel* is the new vp of internal communications. *Ryan Wallach* was upped to vp, legal regulatory affairs and sr deputy general counsel. In corporate affairs, *Dominick Ciaraldi* was promoted to vp, political affairs and community investment, while *Michelle Singer* is the new vp of corporate administration and political engagement.

Research: TVE usage reached 40% of US pay-TV consumers in 2015, up from 22% in 2013, according to the latest **Parks Associates** study. The research firm said 23% of the respondents watched authenticated video at least once a month. "Content providers have been extremely aggressive in promoting their authenticated catch-up services, which is helping create traction for authenticated TV Everywhere services in the digital entertainment household. As usage increases, service providers and content companies alike will need to expand their big data capabilities, allowing them to create even more personalized services for their subscribers and viewers," said research analyst *Glenn Hower*.

ESPN3 to Stream ACC: ESPN3 will stream 6 ACC college football spring games in April, including the ACC Champion Clemson Tigers on April 9 and Kansas and *Stephen F. Austin* spring games.

NAMIC Awards: Winners of the 2016 NAMIC Next Generation Leaders Awards include *Malek Robert Amirshahi*, vp, public relations, **Time Warner Cable**; *Sean Cohan*, pres, international and digital media, **A+E Networks**; *Detavio Samuels*, pres, **One Solution & Interactive One**; and *Urvashi Shivdasani*, svp, finance, **Discovery Networks International**. The celebration will be held as part of **INTX** on May 18. In addition, 10 execs, including *Boris Gartner*, svp and chief strategy officer at **Fusion**, and *Fabienne Clermont*, vp of legal affairs at **Discovery Comm**, will be honored as NAMIC Luminaries.

Vanguard Awards: Ten cable execs will get NCTA Vanguard Awards at **INTX** in Boston on May 18. Heading the list and receiving the Vanguard Award for Distinguished Leadership will be *Kristin Dolan*, **Cablevision** COO; *Robert Marcus*, **Time Warner Cable** chmn/CEO; and *Steven Miron*, **Bright House** CEO.

Discovery One: Discovery Comm's launch of marketing platform One Discovery includes Discovery Engage, a data management and analytic services for targeting, optimization and measurement; Discovery Digital, which allows clients to integrate their ads into Discovery long-form content; Discovery Web-native Networks, which aims to enable advertisers to reach coveted millennial audiences; Discovery VR, which provides virtual reality experiences; and finally Discovery Brand Studios, an in-house production team to develop and produce branded entertainment across screens.

BUSINESS & FINANCE

YES vs Comcast: YES took its fight with Comcast to a new level with TV and print ads featuring Yankees pitcher *CC Sabathia*. "If you're a Comcast Xfinity customer, you will not be able to watch any of the Yankees' games this season," the player tells viewers in the spot. The move followed Comcast's decision to drop YES in Nov. The dispute is rate-related.

Alticast 4K: Multiscreen tech firm Alticast is teaming with Canadian op Videotron to make 4K set tops available throughout its service footprint. Videotron launched its illico 4K Ultra HD PVR, which aims to allow delivery of 4K content and other video services including multiroom capabilities, interactive applications and integration with Videotron's back-office systems.

Programming: Season 3 of *DYI* series "Barnwood Builders" premieres April 24, featuring craftsman *Mark Bowe* and his West Virginia crew as they build modern homes. -- **Ovation** will air the US premiere of "Millennials: Growing Up in the 21st Century," on May 5. The 6-part docu-series looks the lives of a diverse group of 22 children as they emerge as young adults. -- **TNT** ordered a pilot for "Claws," an hour-long scripted drama set in a Southern FL nail salon. -- **TLC** premieres "Out-daughtered" on May 10. The series follows couple *Danielle* and *Adam Busby* as they welcomed home the only all-female set of quintuplets in the country.

Cablefax Daily Stockwatch

Company	03/23 Close	1-Day Ch	Company	03/23 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DISH:	47.82	(0.29)	GOOGLE:	738.06	(2.69)
ENTRAVISION:	7.13	(0.19)	HARMONIC:	3.19	(0.04)
GRAY TELEVISION:	11.55	(0.41)	INTEL:	32.00	(0.32)
MEDIA GENERAL:	16.26	(0.1)	INTERACTIVE CORP:	45.63	(1.1)
NEXSTAR:	43.45	(1.55)	LEVEL 3:	51.29	(0.75)
SINCLAIR:	30.31	(0.87)	MICROSOFT:	53.97	(0.1)
TEGNA:	23.79	(0.36)	NETFLIX:	99.59	(0.25)
MSOS					
CABLE ONE:	435.39	0.39	NIELSEN:	51.93	0.13
CABLEVISION:	32.98	0.03	SEACHANGE:	5.21	(0.22)
CHARTER:	202.32	(1.78)	SONY:	25.57	(0.69)
COMCAST:	59.25	(0.62)	SPRINT NEXTEL:	3.15	(0.22)
GCI:	17.84	(0.18)	SYNACOR:	1.45	(0.02)
LIBERTY BROADBAND:	57.18	(0.44)	TIVO:	7.66	(0.17)
LIBERTY GLOBAL:	36.85	(1.07)	UNIVERSAL ELEC:	61.19	(0.6)
SHAW COMM:	19.08	(0.27)	VONAGE:	4.49	(0.02)
SHENTEL:	25.73	(0.11)	YAHOO:	34.80	(0.61)
TIME WARNER CABLE:	204.45	(0.78)	TELCOS		
PROGRAMMING					
21ST CENTURY FOX:	27.79	(0.17)	AT&T:	38.54	(0.09)
AMC NETWORKS:	63.63	(1.73)	CENTURYLINK:	31.02	(0.6)
CBS:	53.50	(0.36)	FRONTIER:	5.21	(0.1)
CROWN:	5.10	UNCH	TDS:	28.57	0.01
DISCOVERY:	27.81	(1.06)	VERIZON:	52.91	(0.3)
DISNEY:	96.83	(0.75)	MARKET INDICES		
GRUPO TELEVISA:	27.86	0.24	DOW:	17502.59	(79.98)
HSN:	52.46	(0.92)	NASDAQ:	4768.86	(52.8)
LIONSGATE:	21.14	(0.75)	S&P 500:	2036.71	(13.09)
MSG NETWORKS:	17.30	(0.19)			
SCRIPPS INT:	63.48	(0.63)			
STARZ:	26.33	(0.49)			
TIME WARNER:	70.69	(2.13)			
VIACOM:	44.17	(1.07)			
WWE:	17.35	(0.27)			
TECHNOLOGY					
ADDVANTAGE:	1.96	(0.01)			
AMDOCS:	59.36	(0.47)			
AMPHENOL:	56.86	(0.41)			
APPLE:	106.13	(0.59)			
ARRIS GROUP:	23.12	(0.38)			
AVID TECH:	6.49	(0.28)			
CISCO:	27.83	(0.45)			
COMMSCOPE:	26.45	(0.7)			
CONCURRENT:	6.24	0.07			
CONVERGYS:	26.59	(0.12)			
CSG SYSTEMS:	42.24	(0.07)			
ECHOSTAR:	43.32	(1.09)			



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Regulating Privacy – Halfway

Commentary by Steve Effros

The regulatory mess created by the FCC declaring broadband delivery a common carrier and thus putting it under “Title II” of the Communications Act is just now starting to become obvious. The clearest and newest evidence is the Commission’s proposal to add new “privacy” requirements.

This is not an easy or simple subject. I, like loads of others, am very concerned about some sort of security and privacy when it comes to using “the Internet.” Without getting into any of the details, the Commission has released a proposal that would require all ISPs, precisely because they are now considered common carriers, to adhere to very strict privacy protocols including “opt in” authorization from users for the collection and use of data (such as for targeted advertising) derived from their Internet traffic.

The FCC Chairman has launched a not unexpected political campaign from his office (as with many of its pet proposals, such as “net neutrality”) to support his backing of the privacy, transparency, “just protecting the public” ideas. Never mind that they have been put forward as proposals that the Commission alleges it is seeking comment on so that it can make a more informed decision as to whether they are a good idea or not. That’s just a smokescreen, as we all know, and the PR campaigns make obvious. The decision has already been made... forget the idea that they are actually looking for potentially actionable input from others. They’re just going through the motions.

But leaving that aside, on its face, those privacy requirements may make sense, and it certainly sounds like the government is going to bat for the user, the consumer. Except for one major thing: while these rules would



apply to the broadband delivery system, which can tell where you are going on the net, they don’t apply to the far more invasive search engines and “edge” providers of the actual information. Those folks (Google is used by far more people than any single ISP) not only get to know where you are “surfing” on the web, they also know, in many instances, the CONTENT of what you are looking for, saying, or doing! So from a privacy point of view, the big edge provider, like Google or Facebook, has far more personal, private information (which it sells) than can technically be accumulated by the ISPs, and those edge providers don’t have to adhere to the same “common sense” privacy/transparency rules that the Chairman is touting.

Why? Because the Commission claims (there are legal disputes about this) that it has clear jurisdiction and power to apply these rules to a common carrier under its domain but it doesn’t have that same power regarding the edge provider. So Wheeler in essence is saying he can only protect consumers just so far, and the FTC, which he notes has more jurisdiction over the edge folks, will have to take care of the rest.

Well, it’s an interesting argument, but it just results, if true, in fooling the public into thinking the government is protecting their privacy interests, while giving the edge providers (again) a major competitive “leg up.” A far better approach would be to make the issue one that induces Congress to finally rewrite the laws to make clear who can do what and have those rules apply to everyone, not just the ISPs. It’s a close call whether those rules are a good idea or not, but to apply them to just half of the eco-system is counter-productive.

Steve

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(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry. His views do not necessarily reflect the views of Cablefax.)

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