

# Cablefax Daily™

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What the Industry Reads First

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## Broadband Privacy: First Amendment Scholar Critiques FCC's Plan

The FCC's broadband privacy proposal would violate the First Amendment and imposes a substantial burden on speech, concludes constitutional law scholar *Laurence Tribe*. NCTA, CTIA and US Telecom submitted an analysis by Tribe to the FCC Fri, which marked the deadline for comments in the privacy proceeding. Key in Tribe's arguments are that the FCC would require opt-in consent before ISPs could use customer info to develop ads, express important communications or work with third parties to market communications-related services. That boils down to a provider being unable to use info about its own customers to offer a discounted bundle of services or offer accessories compatible with their devices. Tribe argued in 1999 *US West vs FCC* in which the 10th Circuit invalidated the FCC's CPNI rules for voice communications. In that case, the court held that the analysis and transfers of CPNI among corporate affiliates in regard to consumer marketing was speech and the FCC's opt-in consent requirement failed to satisfy intermediate First Amendment scrutiny. "If anything, the proposed rules here are even more constitutionally problematic than the CPNI regulations invalidated by the 10th Circuit. The proposed rules represent a much larger burden on speech and are far less tailored to any substantial governmental interest," Tribe wrote, adding that the proposal fails First Amendment scrutiny because it singles out broadband ISPs for regulation while "ignoring the fact that much of the same information is available to and routinely used by social media companies, web browsers, search engines, data brokers, and other digital platforms." NCTA, CTIA and US Telecom were all filing their own separate comments in the proceeding, which were still trickling in at our deadline. Among those chiming in are CTA (formerly CEA), which warned the rules would chill innovation and investment. At most, the FCC should adopt an approach consistent with the FTC's, which requires companies put reasonable data security safeguards in place, the group said. Free Press is one of the commenters supporting the FCC's plan, arguing that clear, bright-line rules will protect consumers and the integrity of the network. "As our lives have moved online, these ISPs have gained more access to our most sensitive personal information," Free Press wrote. "Advanced technologies allow companies to track their customers invisibly, collecting and selling data on nearly every detail of who we talk to, what we do and say online and, with location tracking, where we do it." The docket also has plenty of consumer comments rolling in, with the gist of several being why is Google getting a free pass. FCC chmn Tom Wheeler has said repeatedly that the Commission doesn't have the authority to regulate edge providers, such as Google. Some complain that the FCC's ECFS has been slow to upload public comments, but the agency has denied that the issue merits a delay in deadlines for the docket.

**Set-top Letter:** Reply comments in the FCC's set-top proposal were due earlier this week, and on Thurs 10 Senators from both sides of the aisle in a joint letter asked the Commission to delay the proceeding "until the FCC sufficiently studies the specific costs and impacts of the proposal on rural consumers and small providers. Small providers will not be able to afford the costs that could be associated with building a new architecture to comply with the proposed rule." The lawmakers, including Cory Gardner (R-CO), Bob Casey Jr (D-PA) and Jon Tester (D-MT), asked agency chmn Tom Wheeler

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to study the costs and impacts of the set-top proposal before moving forward.

**Cable on ATSC 3.0:** The **FCC** should proceed cautiously before allowing broadcasters to replace their over-the-air signals with signals in a new, unfinished, and untested format, **ACA** said in its comments filed with the FCC in response to a broadcaster request for the FCC to authorize a new transmission standard dubbed "ATSC 3.0." The standard is expected to provide more services and increased bandwidth efficiency and compression performance. The group warned that the transition to ATSC 3.0 will likely mean additional costs for small cable ops and their subs. **NCTA** has similar concerns. Before moving forward on the transition, the FCC should seek input on ways to avoid or minimize any burden on cable ops or their subs, the group said in its comments. It also asked the FCC to protect cable ops against reopening retrans agreements when an ATSC 1.0 signal is moved to a different "host" station in order to launch an ATSC 3.0 signal. Broadcasters, on the other hand, strongly urged the FCC to move forward quickly with a rulemaking.

**Verizon/Union Agreement:** US Labor Secretary *Thomas Perez*, who got **Verizon** and its unions representing 40K wireline workers back to contract negotiations earlier this month, announced Fri that the 2 reached an agreement in principle on a 4-year contract. The proposal will be submitted to **CWA** and **IBEW** union members for ratification. "I expect that workers will be back on the job next week," Perez said.

**Viacom/Cox Deal:** **Viacom** and **Cox** renewed their carriage agreement Fri. In addition to carriage of 22 Viacom cable nets and **EPIX**, the deal includes expanded selection of on-demand, full-length content across platforms for Cox subs. The agreement followed Viacom's renewal with **DISH** in April. In Oct, the programmer signed deals with **DirecTV** and **AT&T**.

**Undersea Cable:** As part of its cloud strategy, **Microsoft** is teaming with **Facebook** to build "MAREA," a new subsea cable across the Atlantic. According to Microsoft, the MAREA cable will help meet the customer demand for connections for cloud and online services for the 2 companies and their customers. Construction of the cable will start in Aug with completion expected in Oct 2017. Microsoft and Facebook are working with **Telxius**, Spanish company **Telefónica's** telecom infrastructure company. Telxius will operate the system and sell capacity as part of its wholesale infrastructure business.

**Mediacom Plays Golf:** **Mediacom Business**, a division of **Mediacom**, will provide data, voice and video services again during the Principal Charity Classic, the annual PGA Tour Champions event. Mediacom has installed 3 miles of fiber cable to connect Wakonda Club, where the tournament will be held.

**Programming: USA** is ratcheting up the wrestling, with its weekly "Smackdown" going live for the 1st time ever and moving to Tuesdays beginning July 19. USA's offering of **WWE** programming will bump up to 5 hours/week. After Smackdown, the net will premiere new original drama "Shooter" based on the novel "Point of Impact." -- **FX** picked up "The Americans" for its final 2 seasons to air in 2017 and 2018. FX Productions also said it has closed new overall deals with The Americans co-showrunners and exec producers *Joe Weisberg* and *Joel Fields* to develop their next series. -- **Starz** series "Power" and "Survivor's Remorse" are moving to Sundays, starting with the Season 3 premiere of Power on July 17 (9pm). Survivor's Remorse returns July 24 at 10pm with back-to-back eps. -- "The Hunt with *John Walsh*" will be simulcast on **HLN** and **CNN** beginning June 19. Additionally, previous eps of the CNN original series will begin airing on HLN on June 10. -- **TLC** premieres 1-hour special "*Jamie Lynn Spears: When the Lights Go Out*" on June 26, following her everyday life as she balances family and career in country music.

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## Cablefax Week in Review

Company	Ticker	5/27 Close	1-Week % Chg	YTD %Chg
<b>BROADCASTERS/DBS/MMDS</b>				
DISH:	DISH	48.95	5.29%	(14.39%)
ENTRAVISION:	EVC	7.25	4.47%	(5.97%)
GRAY TELEVISION:	GTN	11.57	2.48%	(29.02%)
MEDIA GENERAL:	MEG	17.80	3.55%	10.22%
NEXSTAR:	NXST	53.10	6.65%	(9.54%)
SINCLAIR:	SBGI	31.37	3.63%	(3.6%)
TEGNA:	TGNA	22.79	0.97%	(10.7%)

Company	Ticker	5/27 Close	1-Week % Chg	YTD %Chg
<b>MSOS</b>				
CABLE ONE:	CABO	487.01	(0.87%)	12.30%
CABLEVISION:	CVC	34.67	0.09%	8.68%
CHARTER:	CHTR	220.01	(5.62%)	20.22%
COMCAST:	CMCSA	62.88	1.81%	11.43%
GCI:	GNCMA	15.21	0.73%	(6.63%)
LIBERTY BROADBAND:	LBRDA	57.61	(3.29%)	11.54%
LIBERTY GLOBAL:	LBTYA	37.31	2.53%	(11.92%)
SHAW COMM:	SJR	19.14	1.75%	11.34%
SHENTEL:	SHEN	31.29	5.60%	(27.32%)

Company	Ticker	5/27 Close	1-Week % Chg	YTD %Chg
<b>PROGRAMMING</b>				
21ST CENTURY FOX:	FOXA	28.93	2.81%	6.52%
AMC NETWORKS:	AMCX	63.18	(3.48%)	(15.4%)
CBS:	CBS	54.87	4.04%	16.42%
DISCOVERY:	DISCA	27.55	5.27%	3.26%
DISNEY:	DIS	100.29	0.51%	(4.56%)
GRUPO TELEVISIVA:	TV	27.24	2.71%	0.11%
HSN:	HSNI	52.10	4.91%	2.82%
LIONSGATE:	LGF	21.84	10.36%	(32.57%)
MSG NETWORKS:	MSGN	17.10	2.21%	(17.79%)
SCRIPPS INT:	SNI	63.62	2.46%	15.23%
STARZ:	STRZA	26.81	1.63%	(19.97%)
TIME WARNER:	TWX	75.28	3.41%	16.41%
VIACOM:	VIA	48.77	15.62%	10.87%
WWE:	WWE	17.51	2.82%	(1.85%)

Company	Ticker	5/27 Close	1-Week % Chg	YTD %Chg
<b>TECHNOLOGY</b>				
ADDVANTAGE:	AEY	1.72	2.38%	(4.97%)
AMDOCS:	DOX	58.01	2.20%	6.30%
AMPHENOL:	APH	58.15	3.77%	11.33%
APPLE:	AAPL	100.35	5.39%	(4.66%)
ARRIS GROUP:	ARRS	23.55	5.94%	(22.96%)
AVID TECH:	AVID	5.90	4.98%	(19.07%)
BLNDER TONGUE:	BDR	0.35	(5.38%)	(12.48%)
CISCO:	CSCO	28.92	3.40%	6.48%
COMMSCOPE:	COMM	31.05	3.92%	19.93%
CONCURRENT:	CCUR	6.42	10.69%	29.70%
CONVERGYS:	CVG	28.14	2.96%	13.06%
CSG SYSTEMS:	CSGS	42.64	2.45%	18.51%
ECHOSTAR:	SATS	40.23	0.70%	2.86%
GOOGLE:	GOOG	732.66	3.23%	(3.46%)
HARMONIC:	HLIT	2.88	9.92%	(29.24%)
INTEL:	INTC	31.57	4.71%	(8.36%)
INTERACTIVE CORP:	IAC	56.27	3.55%	(6.29%)
LEVEL 3:	LVL	53.68	2.68%	(1.25%)
MICROSOFT:	MSFT	52.32	3.36%	(5.7%)
NETFLIX:	NFLX	103.30	11.69%	(9.69%)
NIELSEN:	NLSN	53.72	2.91%	15.28%

Company	Ticker	5/27 Close	1-Week % Chg	YTD %Chg
SEACHANGE:	SEAC	3.41	3.33%	(49.41%)
SONY:	SNE	28.02	5.98%	13.86%
SPRINT NEXTEL:	S	3.68	2.51%	1.66%
SYNACOR:	SYNC	3.15	6.42%	80.00%
TIVO:	TIVO	10.02	0.91%	16.11%
UNIVERSAL ELEC:	UEIC	64.86	3.03%	26.31%
VONAGE:	VG	4.56	8.57%	(20.56%)
YAHOO:	YHOO	37.82	3.62%	13.71%

Company	Ticker	5/27 Close	1-Week % Chg	YTD %Chg
<b>TELCOS</b>				
AT&T:	T	38.99	1.40%	13.31%
CENTURYLINK:	CTL	26.81	(0.92%)	6.56%
FRONTIER:	FTR	5.15	2.79%	10.28%
TDS:	TDS	28.70	4.29%	10.85%
VERIZON:	VZ	50.62	1.93%	9.52%

Index	5/27 Close	1-Week % Chg	YTD %Chg
<b>MARKET INDICES</b>			
DOW:	17873.22	2.13%	2.57%
NASDAQ:	4933.50	3.44%	(1.48%)
S&P 500:	2099.06	2.28%	2.70%

### WINNERS & LOSERS

#### THIS WEEK'S STOCK PRICE WINNERS

COMPANY	CLOSE	1-WK CH
1. VIACOM:	48.77	15.62%
2. NETFLIX:	103.30	11.69%
3. CONCURRENT:	6.42	10.69%
4. LIONSGATE:	21.84	10.36%
5. HARMONIC:	2.88	9.92%

#### THIS WEEK'S STOCK PRICE LOSERS

COMPANY	CLOSE	1-WK CH
1. CHARTER:	220.01	(5.62%)
2. BLNDER TONGUE:	0.35	(5.38%)
3. AMC NETWORKS:	63.18	(3.48%)
4. LIBERTY BROADBAND:	57.61	(3.29%)
5. CENTURYLINK:	26.81	(0.92%)



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