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What the Industry Reads First

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O’Rielly’s Take: FCC Has Serious Procedural Flaws

Republican FCC commish *Michael O’Rielly* has long pushed for process reform at the agency. The current Commission tends to resort to shortcuts, according to O’Rielly, who pointed to the net neutrality order. Speaking at a **Hudson Institute** event Thurs, he said skipping procedural processes because they are in the way is “harmful to the overall policy going forward.” In the net neutrality proceeding, O’Rielly said the Commission didn’t provide a reasoned explanation to justify several key decisions. In reclassifying broadband as a telecom service, the order attempted to rely on changed facts and a new rationale, he said. “It focused on how providers offer and advertise broadband, as well as how consumers perceive and use it—but failed to demonstrate how this is any different than when the Commission previously argued that broadband should be classified as an information service,” he said. In other instances, where the FCC changed course, he said it provided even less explanation, claiming the net neutrality order contained statements like: “To the extent our prior precedents might suggest otherwise, we disavow such an interpretation in this context.” “That’s it. The FCC did not even take the time to explain what those precedents or interpretations were or why this context is any different. I expect it would have reached the same conclusion if it had, but it did not even bother to do the work,” O’Rielly said. A potentially more conservative Commission in the future could overturn decisions like the Open Internet Order and many other aspects of the agency process, according to the GOPer. He mentioned some FCC decisions were made over a short period of time. “It’s very problematic... You see it in the items themselves. Some proceedings aren’t sufficiently cooked,” he said. And taking shortcuts has become a monthly occurrence where procedures are being ignored, and “we will pay the cost in the long term,” said O’Rielly. The FCC just released its sensitivity-based broadband privacy framework, which featured **FTC** input. However, cable is concerned that the scope of what’s considered sensitive data is too broad. The FCC doesn’t have “the sufficient expertise or resources to understand the issue of privacy,” O’Rielly said, saying the agency only has less than two handfuls of staff working on privacy. And “I don’t think we (FCC) have a sufficient grasp of how privacy is done throughout the federal government” or the business side, the commish said. The FCC should take a much longer time period to look at privacy issues



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and that's assuming something needs to be done on the issue, he said. On the pending Business Data Service (BDS) proceeding, O'Rielly said it does seem that the FCC is heading down the rate regulation path. "It's certainly problematic on multiple levels. We will just have to see how this plays out," the GOPer said. Circulated last week, the framework proposed price cap regulation for legacy providers. Ethernet providers, which include some cable providers, wouldn't be subject to price caps or network bundling regulation. Several Democrats recently attacked the BDS proposal. According to the letter addressed to FCC chmn *Tom Wheeler* by 5 senators late Wed, "the policies adopted in the rulemaking must take great care in how it may affect rural areas to make sure it does not deter investments" in broadband infrastructure, particularly as it relates to rural America. The lawmakers are *Heidi Heitkamp* (D-ND), *Mazie Hirono* (D-HI), *Jeffrey Merkley* (D-OR), *Jeanne Shaheen* (D-NH) and *Debbie Stabenow* (D-MI). In a separate letter, DE Governor *Jack Markell* (D) said it is important for the FCC "to utilize accurate and comprehensive data regarding pricing and availability of broadband within a given geographic area to inform the rulemaking process and ensure that private investment in broadband infrastructure remains strong." Lastly, a letter from Reps *Bill Flores* (D-TX) and *Gene Green* (D-TX) said a "failure to recognize the extent of competition will likely result in regulations that will deter incumbent, recent, and future providers from investing in BDS, harming providers and consumers alike."

Discovery Invests in Group Nine Media: Discovery Communications stepped up its digital game with a \$100mln minority investment in new media company **Group Nine Media**, which consists of **Thrillist Media Group**, **NowThis Media**, **The Dodo** and Discovery's digital net **Seeker**. In the future, Discovery will have an option to buy a controlling stake in Group Nine Media. As part of the arrangement, digital publishing house Axel Springer will maintain its investment as the 2nd largest shareholder. Thrillist CEO *Ben Lerer* will become CEO of Group Nine Media. The partnership will include a commercial agreement that will enable advertisers to reach their audience via multiple platforms including linear, digital, social and live events. The investment is expected to expand Discovery's push into the digital network space targeting millennials, which started with the 2012 purchase of digital net **Revision3** and the acquisition of *Philip DeFranco's* online video company **DeFranco Creative**. The transaction is expected to close in 4Q.

PowerBrokers: Oxygen Media co-founder *Geraldine Laybourne* entertained and inspired at **WICT DC/Baltimore's** PowerBrokers award breakfast Thurs in DC. Her many anecdotes as keynote speaker included how she hired former **Disney Media** co-chair *Anne Sweeney* on the recommendation of *Bernice Coe Stavis*, a member of the first governing board of WICT. But when Laybourne hired her, it was as her secretary. "She was the worst secretary. I had to hire a temp for her," she said, cracking up the room at the National Press Club. The breakfast honored 9 women in the industry who embody WICT's Touchstones- Communicate, Listen, Connect, Be a Catalyst, Be Fearless, Know Yourself and Inspire. Read all about it at **Cablefax.com**.

Spectrum Auction: The 2nd part of the **FCC's** reverse spectrum incentive auction closed Thurs, clearing 114 MHz of spectrum with a sale price of \$54.6bln. The next step will be a forward auction, which is expected to start 4 business days after the close of the reverse auction. The auction proceeds are "well below" what **Wells Fargo** analysts had expected (\$60bln to \$70bln) and should be considered a positive surprise, the analysts said. With the bid-ask spread narrowing, they expect the auction to end earlier than expected. That's an incremental positive for **Nextstar**, **Comcast** and **DISH**.

Viacom Watch: There's a lot of uncertainty over **Viacom** these days, but **Wells Fargo Securities** is upgrading the stock to "market perform." The analysts have **CBS** as their top pick and are still troubled by Viacom. But "we don't see another 20% of downside here," thus the upgrade, said a research note. The firm joined others in saying that a CBS-Viacom marriage doesn't appear imminent, but if it should happen, Wells Fargo doesn't anticipate CBS will pay less than \$32-\$33 in a take-under.

Business Services: OR's **Cascadia Behavioral Health** is a new **Comcast Business Ethernet** customer. The private, nonprofit mental health organization is using it to connect multiple sites in five counties, relying on the network for sharing of medical records and test results.

BUSINESS & FINANCE

On the Circuit: Former CTAM pres/CEO *Char Beales* and her husband *Howard Beales*, a professor and chair in the **George Washington School of Business**, have pledged \$3.2mIn to the GW School of Media and Public Affairs to fund an endowed professorship. The gift, which is a bequest commitment from the Beales' estate, will create the Char Beales Endowed Professorship of Accountability in Journalism, a position that will advance academic research in this area. The bequest is the largest single gift in the history of the School of Media and Public Affairs.

Programming: truTV ordered new lifestyle series "Upscale with Prentice Penny." The 12-ep unscripted program is set to premiere in spring, 2017. -- **Logo** booked a 2nd season for "Finding Prince Charming," a reality dating competition series that premiered in Sept.

People: VH1 upped *Dara Cook* to vp, strategic development. She will report to head of reality programming and development *Nina Diaz* and work closely with network pres *Chris McCarthy*. -- **Atlantic Broadband** named 3 vps, gms for the SC, FL and MD & DE regions. *Elizabeth Michelsen* is now overseeing FL. *Scott Randall* is heading up MD and DE, while *Debbie Eblen* has oversight of SC. These are new leadership roles for the company.

Cablefax Daily Stockwatch

Company	10/13 Close	1-Day Ch	Company	10/13 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DISH:	56.98	1.38	INTEL:	36.97	(0.16)
ENTRAVISION:	7.16	(0.14)	INTERACTIVE CORP:	61.72	(0.37)
GRAY TELEVISION:	9.60	(0.16)	LEVEL 3:	45.09	(0.14)
MEDIA GENERAL:	18.02	(0.19)	MICROSOFT:	56.92	(0.19)
NEXSTAR:	54.19	(1.63)	NETFLIX:	100.23	0.73
SINCLAIR:	26.26	(0.82)	NIELSEN:	52.55	0.50
TEGNA:	19.94	(0.3)	SEACHANGE:	2.62	(0.06)
MSOS					
CABLE ONE:	580.79	(1.38)	SONY:	33.27	0.57
CHARTER:	256.40	(0.49)	SPRINT NEXTEL:	6.77	(0.01)
COMCAST:	65.12	(0.12)	SYNACOR:	2.75	(0.05)
GCI:	14.48	0.02	UNIVERSAL ELEC:	70.17	(0.56)
LIBERTY BROADBAND:	66.14	(0.52)	VONAGE:	6.27	(0.1)
LIBERTY GLOBAL:	31.86	(0.56)	YAHOO:	41.62	(0.74)
SHAW COMM:	20.06	0.25	TELCOS		
SHENTEL:	25.94	0.05	AT&T:	39.37	0.04
PROGRAMMING					
21ST CENTURY FOX:	24.56	0.01	CENTURYLINK:	27.39	(0.18)
AMC NETWORKS:	48.26	(1.79)	FRONTIER:	4.00	(0.02)
CBS:	55.24	0.09	TDS:	26.61	(0.31)
DISCOVERY:	25.68	(0.49)	VERIZON:	50.29	(0.01)
DISNEY:	91.12	(0.29)	MARKET INDICES		
GRUPO TELEVISA:	25.32	(0.52)	DOW:	18098.94	(45.26)
HSN:	38.18	(0.53)	NASDAQ:	5213.33	(25.69)
LIONSGATE:	18.69	(0.58)	S&P 500:	2132.55	(6.63)
MSG NETWORKS:	18.38	(0.37)			
SCRIPPS INT:	61.77	(0.41)			
STARZ:	30.57	(0.35)			
TIME WARNER:	79.40	(0.51)			
VIACOM:	40.44	0.89			
WWE:	19.96	0.07			
TECHNOLOGY					
ADDVANTAGE:	1.78	(0.01)			
AMDOCS:	59.33	(0.18)			
AMPHENOL:	63.30	(0.66)			
APPLE:	116.98	(0.36)			
ARRIS GROUP:	28.57	(0.52)			
AVID TECH:	7.21	(0.04)			
BLNDER TONGUE:	0.57	(0.02)			
CISCO:	30.17	(0.17)			
COMMSCOPE:	30.62	(0.41)			
CONCURRENT:	5.87	(0.17)			
CONVERGYS:	29.69	0.02			
CSG SYSTEMS:	39.89	(0.44)			
ECHOSTAR:	45.56	0.01			
GOOGLE:	778.19	(7.95)			
HARMONIC:	5.47	(0.09)			



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PROGRAMMER'S PAGE

On the Menu

Take one ex-American Idol. Give him a dish and send him all across America, and you have **INSP's** newest series "State Plate" (premieres Oct 21, 9pm ET). Yes, there are other food shows with some travel, but there's something especially delicious about this tour of the USA. It starts with host *Taylor Hicks*, a former American Idol champ. He exudes authenticity, much like he did on the singing competition series. **INSP COO Dale Ardizzone** said the net couldn't have asked for a better partner. "He's wonderful in terms of promotion. He does it in social media, his concerts and appearances," he said. And people just love him, acknowledged Ardizzone. State Plate also sets itself apart by showcasing an entire state. Each episode has Hicks traveling to a new state where he literally fills a plate with some of the region's specialties. One of the first eps features Illinois. That brings the obvious Chicago-style hot dogs and pizza found on most geo-related food shows, but State Plate takes in the entire landscape—with Hicks' visiting southern IL for its corn (then turned into popcorn) and Evanston, IL, home of the ice cream sundae. It's really meant to be something the entire family can view together, Ardizzone said. Family friendly is **INSP's** bread and butter, and it's paying off. The brand recently surpassed 2mln followers on **Facebook**. "Our fans tend to watch **INSP** very consistently. We have some of the highest numbers in terms of length of viewership," the COO said. The net's hoping to build State Plate into appointment viewing by launching a new "Destination Fridays" programming block with its premiere. The Hicks show starts the night off, followed by "Handcrafted America." "Like Taylor, [Handcrafted host *Jill Wagner*] is traveling across the country visiting these artisans. I think back-to-back, they really complement each other," Ardizzone said. Rounding out the night is new series "Cash Cowboys," in which a cowboy hat clad duo rummage for hidden treasures. We're betting folks will be coming back for seconds. — *Amy Maclean*

Reviews: "Southwest of Salem," Sat, 8pm, **ID**. A hard look at truth vs justice, this compelling documentary tells the story of four women accused of sexual assault and indecency against two young girls in 1994. The story is told with a degree of dispassion, although it's clear eventually where filmmaker *Deborah Esquenazi* stands on the case. -- "Killing Reagan," Sun, 8pm, **Nat Geo**. Likely to grab ratings as others in Nat Geo's "Killing" series have, this re-creation of the attempted killing of President *Reagan* is a decent if somewhat wooden retrospective. The highlights are its portrayal of would-be assassin *John Hinckley Jr.* and its emphasis of how touchy the president's medical situation really was. It's also fun to watch the depiction of *Alexander Haig* (*Patrick St. Esprit*) attempting a power-grab. The controversies stirred up by *Bill O'Reilly's* book on which the film is based include *Nancy Reagan's* (*Cynthia Nixon*) use of an astrologist after that day and whether or not doctors informed her that the president (*Tim Mathe-son*) might never fully recover physically or mentally. -- "Phi Slama Jama" Tues, 8pm ET, **ESPN**. Yet another fine "30 for 30" outing. It expertly weaves the stories of *Hakeem Olajuwon*, *Clyde Drexler* and *Guy Lewis* to describe the early 80's resurgence of the dunk in college basketball; it was banned from 1967-76. — *Seth Arenstein*

Basic Cable Rankings (10/03/16-10/09/16)			
Mon-Sun Prime			
1	ESPN	1.7	3956
2	FOXN	1.5	3539
3	CNN	1.2	2782
4	TBSC	0.9	2234
4	MSNB	0.9	2025
6	USA	0.6	1416
7	HGTV	0.5	1249
7	DSNY	0.5	1228
7	TWC	0.5	1007
10	HIST	0.4	987
10	FOOD	0.4	941
10	FX	0.4	933
10	ADSM	0.4	917
10	FS1	0.4	840
10	DISC	0.4	838
10	ID	0.4	792
10	MLBN	0.4	743
10	DSE	0.4	90
19	HALL	0.3	798
19	LIFE	0.3	750
19	NAN	0.3	665
19	FRFM	0.3	657
19	NKJR	0.3	632
19	TLC	0.3	621
19	TVLD	0.3	612
19	SPK	0.3	579
19	NFLN	0.3	520
19	DSJR	0.3	505
19	HMM	0.3	435
30	TNT	0.2	588
30	A&E	0.2	587
30	SYFY	0.2	577
30	VH1	0.2	562
30	BRAV	0.2	556
30	BET	0.2	525
30	AMC	0.2	516
30	OWN	0.2	497
30	CMDY	0.2	456
30	APL	0.2	425
30	LMN	0.2	419
30	TRAV	0.2	406
30	WETV	0.2	398
30	NGC	0.2	397
30	INSP	0.2	376

*Nielsen data, supplied by ABC/Disney, is based on coverage area of individual networks

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