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What the Industry Reads First

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#Solutions2020: Media Diversity, Community Broadband Advocated

The “#Solutions2020 Policy Forum,” the culmination of **FCC** commish *Mignon Clyburn*’s “#ConnectingCommunities” tour, saw the Democratic commish and 2 programmer execs slamming cable bundling practices and calling for more diversity in the media business. “Bundling by conglomerates is a major obstacle inhibiting growth. A small number of conglomerates have tremendous anti-competitive leverage,” **INSP** chmn/CEO *David Cerullo* said during the digital inclusion panel Wed. He said of the 250 networks measured by comScore, 162 are owned by 11 major media companies. These major programmers “force MVPDs to carry and compensate them for all channels,” regardless of ratings, viewership and performance, he said. Such practice limits consumer choice, creates monopolies and “squeezes independent programmers out of the video marketplace,” Cerullo said. He cited discrimination, abuse of power and lack of fairness by some MVPDs, with respect to carriage and associated economic terms, as top obstacles facing indie programmers today. The solution? Distributors should be required to make carriage and compensation decisions on the basis of consumer demand and ratings performance. And carrier negotiations should be a transparent process that results in fair, reasonable, non-discriminatory carriage terms, according to Cerullo. “I believe that true diversity can only be achieved with a strong base of independent programmers,” and those programmers can’t survive based on OTT distribution alone, he said. The FCC’s pending set-top proposal could potentially open up the video platform everyone, said *Ravi Kapur*, founder/CEO, of **Di-yaTV**, a South Asian broadcast network owned by **Major Market Broadcasting**. “Getting meetings (with major MVPDs) and getting on their systems is nearly impossible,” he said. FCC chmn *Tom Wheeler* addressed his set-top proposal in an op-ed Wed, arguing that consumers would get “a better viewing experience thanks to integrated search and new innovation that will flow from enhanced competitive choice.” MSOs and some programmers have worried that the proposed rules might hurt copyright protections and new business models. As for Clyburn, she urged building “a robust record of data to illustrate a comprehensive picture of today’s media landscape.” One place to start would be the recent Quadrennial Review proceeding, she said. Clyburn also called for more community broadband. She supports the enactment of The Community Broadband Act, which preserves the local communities’ rights to provide broadband service. She also urged setting aside more spectrum for mobile broadband.

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Class Action Cases: Comcast is facing a class action suit over its broadcast TV and RSN fees. The complaint, filed in US District Court for Northern CA, alleges that the MSO intentionally doesn't include the cost of the fees in advertised or quoted rates in order to "mislead customers" into thinking they'll pay less. "We have been working to make it easier for customers to understand what they're paying for, which is why we list the Broadcast TV and Regional Sports fee separately on the bill and include disclaimers about them in our advertising. It's also worth noting that the complaint itself demonstrates that these fees are disclosed and that they're not part of promotional pricing," Comcast said. -- **DISH** scored a victory in the 8th Circuit Court of Appeals in a class action case about whether it should have to provide a refund or credit if subs lose a channel for a period of time. In an opinion released earlier this month, the 3-judge panel reversed a lower court ruling that had found in favor of the customers. The opinion said the contract between the lead plaintiff and DISH had been in effect for years when **Turner** and **Fox News** service was interrupted. "Both parties had provided substantial performance of their respective contractual promises, and DISH continued to provide many uninterrupted channels to its subscribers," the court said in rejecting the argument that the contract was illusory.

Sling TV's New Offerings: Sling TV added **NHL Network**, **Hallmark Channel** and **Hallmark Movies & Mysteries** to its lineup. It's the 1st OTT provider to carry NHL Network, which is now available in the "Sports Extra" add-on pack for \$5 a month with a Sling Orange subscription or \$10 a month with a Sling Blue subscription. Hallmark Channel and Hallmark Movies & Mysteries are in the "Lifestyle Plus Extra" add-on pack, \$5 per month with a Sling Orange or Sling Blue subscription. The company is offering free access to the "Broadcast Extra" pack in certain markets for customers who subscribe to both Sling Orange and Sling Blue. The "Broadcast Extra" tier features **ABC**, **Univision** and **Unimás**.

Google TV: Google is likely to offer a new TV service early next year after inking a deal with **CBS** and nearing agreements with **Disney** and **Fox**, The *WSJ* reported Wed. Sources told the paper that the service, dubbed Unplugged, would offer a skinny bundle for \$20-40/month and would be housed on the **YouTube** platform.

Auction Watch: The **FCC's** forward auction failed to hit the necessary \$56.5bln in stage 2 Wed. After just 1 round with net proceeds of \$20.95bln, the auction is moving into stage 3 at a lower target as bidding failed to meet the conditions to trigger an extended round. The FCC expects to release a public notice next week with details about the next stage of reverse auction broadcasters bidding, including the clearing target and the start date/time. **Well Fargo Securities** analysts called Wed's 1-round ending "completely unexpected." "On the positive side, it means the auction is moving MUCH more quickly than we had thought. On the negative side, it means that there wasn't enough demand for this amount of spectrum (90MHz). We do think there is demand for spectrum—just not this much," said a note to clients. The firm thinks stage 4 with about \$30bln in gross proceeds on 70 MHz might be where we're headed.

Wheeler's Take: FCC chmn *Tom Wheeler* addressed his broadband privacy proposal in an op-ed Wed, the same day the agency released its consumer report that documented consumer initiatives at the agency, including USF reform and the Open Internet Order. ISPs have "a broad view of all of your unencrypted online activity." And even when data is encrypted, "your broadband provider can piece together significant amounts of information about you..." Wheeler wrote. He said the proposed privacy rules will let consumers make informed decisions about how ISPs use and share their data. Cable was concerned that what's considered sensitive data in the proposal is too broad.

Debate Night: The Media Institute really knows their audience. The Institute moved up the start time of its annual Friends & Benefactors Awards Banquet, slated for Wed at the Ritz-Carlton in DC, to 5pm with a hard stop at 8:30pm so that the crowd can get home in time to watch the final presidential debate. The Institute is honoring **FCC** commish *Ajit Pai* with the Freedom of Speech Award and **Nexstar's Perry Sook** with the American Horizon Award.

Liberty More Global: Liberty Global is paying \$760mln for the 3rd largest cable operator in Poland, **Multimedia Polska**. The final purchase price is subject to potential downward adjustments for operational and financial performance at Multimedia before the deal closes. Liberty is home to the largest Polish operator, **UPC Polska**.

Unlimited Data: T-Mobile and the **FCC** reached a \$48mln settlement following an investigation into whether the mobile provider adequately disclosed speed and data restrictions for its "unlimited" data plan. T-Mobile will offer \$35.5mln in consumer benefits (20% off of accessories up to \$20 or 4Gb of additional data if customers have a mobile data line. The settlement includes a \$7.5mln fine and at least \$5mln in services and equipment for America's schools. The probe began

BUSINESS & FINANCE

after the Commission received complaints from customers who felt misled when they discovered their unlimited data plans included de-prioritized speeds after using 17GB of data each month. T-Mobile will update its disclosures and will notify individuals when their data usage approaches the threshold. Last year, the FCC proposed a \$100mln fine against **AT&T** mobility for misleading consumers about its "unlimited" plans. AT&T is challenging the fine.

People: Entertainment Studios has named *Peter Harrison* vp, long-form cable ad sales. He previously held sales roles at **ION Media Nets**, **WorldLink** and **Fox Sports Regional Nets**.

Project C.A.T.: Discovery Comm, the programmer behind "Planet Earth" and "Racing Extinction," announced a partnership with **World Wildlife Fund** to help conserve protected land in India and Bhutan to revitalize the wild tiger population. Project C.A.T. will put the spotlight on the endangered animal as well as provide needed funds to help park rangers monitor and protect the tigers. Discovery will fund and help conserve nearly 1mln acres of protected habitat and will use its distribution channels to further the cause.

Correction: One World Sports is the only sports net **Comporium** is currently launching on its Digital Variety Tier. The operator has other sports channels already available.

Cablefax Daily Stockwatch

Company	10/19 Close	1-Day Ch	Company	10/19 Close	1-Day Ch
BROADCASTERS/DBS/MMDS			INTEL:	35.51	(2.24)
DISH:	57.44	0.82	INTERACTIVE CORP:	65.82	1.20
ENTRAVISION:	7.11	0.05	LEVEL 3:	47.63	0.56
GRAY TELEVISION:	9.85	0.15	MICROSOFT:	57.53	(0.13)
MEDIA GENERAL:	17.63	(0.02)	NETFLIX:	121.87	3.08
NEXSTAR:	52.92	1.02	NIELSEN:	54.32	0.43
SINCLAIR:	26.60	0.10	SEACHANGE:	2.71	0.05
TEGNA:	20.33	0.30	SONY:	32.91	(0.59)
MSOS			SPRINT NEXTEL:	6.88	0.02
CABLE ONE:	583.03	3.38	SYNACOR:	2.90	(0.05)
CHARTER:	260.20	0.25	UNIVERSAL ELEC:	69.45	0.30
COMCAST:	64.91	0.03	VONAGE:	6.25	UNCH
GCI:	14.89	0.09	YAHOO:	42.73	1.05
LIBERTY BROADBAND:	66.65	(0.15)	TELCOS		
LIBERTY GLOBAL:	31.56	0.32	AT&T:	39.38	0.02
SHAW COMM:	20.12	0.01	CENTURYLINK:	28.18	0.28
SHENTEL:	26.05	(0.5)	FRONTIER :	4.09	0.01
PROGRAMMING			TDS:	26.93	(0.04)
21ST CENTURY FOX:	25.12	0.16	VERIZON:	50.38	0.11
AMC NETWORKS:	49.25	(0.01)	MARKET INDICES		
CBS:	55.53	0.43	DOW:	18202.62	40.68
DISCOVERY:	25.61	0.40	NASDAQ:	5246.41	2.57
DISNEY:	91.93	0.76	S&P 500:	2144.29	4.69
GRUPO TELEVISA:	26.29	0.38			
HSN:	38.30	0.25			
LIONSGATE:	19.04	0.32			
MSG NETWORKS:	19.10	0.45			
SCRIPPS INT:	61.89	0.20			
STARZ:	30.77	0.25			
TIME WARNER:	79.24	(0.27)			
VIACOM:	40.70	(0.05)			
WWE:	19.79	(0.03)			
TECHNOLOGY					
ADDVANTAGE:	1.90	0.08			
AMDOCS:	59.46	(0.15)			
AMPHENOL:	64.71	1.50			
APPLE:	117.12	(0.35)			
ARRIS GROUP:	29.12	0.22			
AVID TECH:	7.28	(0.13)			
BLNDER TONGUE:	0.58	0.04			
CISCO:	30.35	(0.09)			
COMMSCOPE:	32.02	0.56			
CONCURRENT:	5.95	(0.04)			
CONVERGYS:	30.16	0.19			
CSG SYSTEMS:	39.53	0.07			
ECHOSTAR:	46.02	0.18			
GOOGLE:	801.56	6.30			
HARMONIC:	5.40	(0.15)			

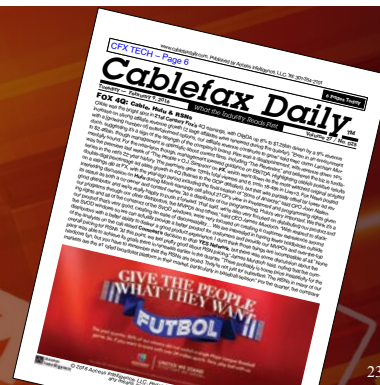
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Think about that for a minute...

Consistency

Commentary by Steve Effros

There's something to be said for consistency, especially in matters of policy. The dictionary definition is "...conformity in the application of something, typically that which is necessary for the sake of logic, accuracy or fairness." I'm not arguing for slavish adherence to that idea, after all, the admonition that "...foolish consistency is the hobgoblin of little minds" will inevitably be brought up. But in our business, where telecommunications policy is now being applied across numerous different technologies and business models, the need for some consistency seems to me to be essential.

Unfortunately, it would appear that the powers that be don't see it that way. After all, for instance, critical notions of privacy while using the burgeoning Internet are now being proposed that would allow one giant group of edge providers to have to adhere to one set of rules, and a totally different set of rules would apply to the ISP community. Note, however, that it's the same consumer's privacy that is allegedly being protected!

There's a certain irony that in some pretty fundamental cases this call for logic, accuracy and fairness is totally ignored even by the companies and consumer "advocates" (read "lobbyists") promoting their pet policy positions to the government. A fascinating one came up this week as Google released its newly minted Pixel cell phone. It's Google, you may remember, that has fought so hard for the set-top box rules... the rules trying to force a separation between the provider of a service and the equipment used to access that service.

Well, here's a sampling of what the very favorable reviews are saying about the new Pixel:

"..Google is arguing strenuously that it can make a better phone because it controls both the hardware and software."
- The Verge



And then there was this from a *Business Insider* reviewer who raved about the new phone finally getting things right about the Android operating system: "...Its greatest strength—the openness and ability for any phone maker to freely adopt and modify the software—is also its greatest weakness. It has caused fragmentation, spotty or missed updates, and major security concerns. After all these years, the companies that make Android phones have shown no signs of cleaning things up. So Google decided to fix the debacle it helped create."

Fascinating. This all while Google is the driving force behind pressure on the FCC to quickly adopt its favored set-top box proposal so that those boxes will be built by manufacturers that can ... freely modify... causing fragmentation, spotty or missed updates, and major security concerns. Consistency? Google has finally realized that if it's going to make the product that it really thinks will best represent and provide its service, it has to build and control the parameters of that product itself. Apple realized that a long time ago. But when it comes to our business, they see no reason why Comcast, for instance, should be able to control and set strict parameters on its X1 service and the products that deliver it.

I suppose the shorthand way to argue this case is the old phrase "what's good for the goose is good for the gander." But that would be too simplistic. These are very complicated issues, and the mere fact that we have been talking and debating them for years is certainly no winning case for the argument that the Commission should now act immediately, as is being demanded, especially since the proposed "solutions" are yet to even be publicly revealed. Transparency, logic and fairness also require consistency.

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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