

# Cablefax Daily™

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What the Industry Reads First

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## PLI Seminar: Hill Activities During Transition and Beyond

Despite Congress' lame-duck session, the **House and Senate Commerce Committees** are still working on several important initiatives that could potentially revise the **FCC's** broadband privacy rules, the net neutrality rules and the Communications Act, Hill panelists said during the **PLI/FCBA** 34th Annual Institute on Telecom Policy & Regulation Fri. One initiative that could have the most immediate impact is possibly using the Congressional Review Act to revoke the recently passed privacy rules. Passed in Oct, the sensitivity-based privacy rules require service providers to obtain different kinds of consumer consent before using their information. The measure, signed into law in 1996, gives Congress 60 legislative days to disapprove of a newly passed regulation. If the 60-day threshold isn't reached in the current Congress, the clock can be reset for the next Congress, said *David Redl*, chief counsel with House Commerce. He acknowledged that House Commerce leaders are considering using the Act on a number of things, not just privacy. Similar activities are underway at Senate Commerce, said *David Quinalty*, the committee's policy dir. One interesting aspect of the Congressional Review Act is it prevents an agency from creating similar rules in the future, Redl said, noting "we don't have a lot of experience with CRA" because it was only used once since it was enacted. Media attorney and consultant *Andrew Schwartzman* estimated that any federal agency rules passed after May could be subject to the Congressional Review Act. That means the media ownership order that was passed in August is potentially subject to the law. **NAB** filed a petition to reconsider the order on Thurs, arguing that attributing TV JSAs threatens local TV ownership rule and that the agency erred in concluding that broadcast TV stations compete only against themselves in the modern video marketplace. It asked the Commission to reverse or significantly narrow the decision requiring disclosure of a virtually unlimited range of station agreements. While net neutrality rules, which were OKed by the FCC last year, won't be subject to the Congressional Review Act, they are likely to be one of the first things reconsidered under the new FCC, several panelists said, adding that lawmakers on both chambers are also looking to resume efforts on net neutrality in the new Congress. Another initiative that will continue is the rewrite of the Telecom Act, something House Commerce has been working on for a while.

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Redl said that at minimum the committee hopes to update rules regarding FCC processes, the small business broadband exemption and the FCC Consolidated Reporting Act. "We have been very clear that there is a lot in the Communications Act that no longer reflects the world we live in... We will try to make some changes in the next few years..." he said. On the Senate side, Quinalty said committee chmn *John Thune* (R-SD) is eager to move the rewrite effort forward. Another Hill initiative is to work with *President-elect Trump* on his potential infrastructure package. With broadband being a critical infrastructure, Quinalty said "we want to see digital infrastructure addressed" in any potential package, with a goal to make sure rural America benefits from any future spending in infrastructure. On the House side, the Commerce Committee has focused on promoting investment in broadband infrastructure by lowering barriers to entry, said Redl. Speaking of the committee, *Greg Walden* (R-OR), head of the Communications Subcmte, was elected chmn of the Commerce Committee late Thurs, replacing current chmn *Fred Upton* (R-MI).

**More from PLI:** FCC Media Bureau chief *Bill Lake* said he believes more competition in video distribution is positive and that OTT helps drive more competition in video delivery and programming. He acknowledged the agency often hears from small distributors and programmers that they lack bargaining power vs the major players. Lake suggested that the expansion of OTT services could foster more competition and help solve the problems facing smaller competitors. Meanwhile, names are flowing around on possible people to fill *Tom Wheeler's* shoes as the next FCC chmn. The truth is "you just never know," said **Wiley Rein's** *Richard Wiley*, who served as chmn under *President Gerald Ford* from 1974 to 1977. He posited that neither of the 2 GOP commissioners are likely to serve as interim chmn.

**Zero-rating:** The FCC sent letters to **Verizon** and **AT&T** Thurs regarding their sponsored data programs. Both carriers offer services that exclude certain content from their subs' monthly data caps. In AT&T's case, the newly launched **DirectTV** Now service is exempt from customers' mobile data usage. Such practices could discourage consumers from accessing content from providers that are not part of the sponsored data program, the FCC said. "We have therefore reached the preliminary conclusion that these practices inhibit competition, harm consumers, and interfere with the 'virtuous cycle' needed to assure the continuing benefits of the Open Internet," it said, asking the companies to respond by Dec 15. Both companies said they are reviewing the letter and will respond. GOP commish *Michael O'Rielly* criticized the move. "In light of the multiple directives we have received from Congress to avoid directing attention and resources to complex or controversial matters, the staff of the Wireless Telecommunications Bureau is inappropriately pressing forward and escalating its investigation of certain providers' zero-rated video services," he said in a statement. He warned that any potential action the Bureau may be considering can be reviewed and potentially reversed within weeks. "To the extent the message to stop work on such items has not filtered down to staff, the Chairman should direct the Bureau to halt this wild goose chase at once," O'Rielly said.

**Programmatic at NAB:** The **NAB Show** continues to expand into different areas. Add programmatic to the list, with the show partnering with **GABBCON**, Global Audience Based Buying Conference, to create a new conference for buyers and sellers of TV, radio and digital advertising during the NAB Show in Vegas, April 22-27. The day-and-a-half long conference will include hands-on demos as well as discussions on the programmatic space. Other collaborative events are planned between the 2 for 2017.

**truTV Brand Campaign:** **truTV** launched a brand campaign aimed at continuing to connect the truTV brand to its comedic slate of shows like "Impractical Jokers" and "Adam Ruins Everything." The net underwent a transformation in the last two years to move away from trial coverage and "derivative reality shows" and into creator-driven comedies. The multiplatform campaign will include a range of company actions that will roll out over the next year.

**Programming:** **Bravo's** "Watch What Happens Live with Andy Cohen" will debut a name change, a revamped studio and a new logo on Jan 3. A socially-driven experience, the new studio will feature customized Snapchat geofilters featuring themes tied to the Bravo Clubhouse available for audience members attending the show taping.





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