

Cablefax Daily™

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What the Industry Reads First

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FTC Spotlight: Senators Talk Data, Mergers & Apps

With the need for data privacy regulations one of the few areas members of both parties seem willing to agree on, Congress is getting the groundwork started on legislation. Tuesday's **Senate Commerce** subcommittee **FTC** oversight hearing offered a window into some of the lawmakers concerns—from “big tech” to datamining targeted at children. It marked the first time the Hill has heard from all five new commissioners since their confirmation in the spring. **Facebook** and **Google** data breaches were naturally discussed, though Sen *Richard Blumenthal* (D-CT) made sure to note that “Facebook has captured the headlines, but it's hardly alone.” Blumenthal declared that big tech should no longer be entitled to tell America to simply “trust us,” and questioned whether the **Cambridge Analytica** scandal could have happened if the FTC's consent decree was adequately enforced. FTC chmn *Joseph Simons* declined to comment on any specific investigations, but pledged that any time there is a press report of potentially significant violations, it's safe to assume the agency is investigating already or soon will be. “In my view, no matter how big or powerful they might be, we must hold companies accountable for widespread failures, and we must always be willing to take them to court,” said Democratic commish *Rohit Chopra*. Subcommittee chmn *Jerry Moran* (R-KS) asked about whether the agency had adequate resources to support its current consumer data and privacy and security authority. Simons pointed to the enormous level of litigation going on inside the FTC. “Our staff is literally almost killing themselves. They're working so hard on these litigations. If that remains at a historic high level or increases, we would need more resources,” Simons said, adding that more resources around economics and technology could be helpful. Simons said that when he joined the FTC on May 1, there were four merger cases being litigated at once. Sen *Amy Klobuchar* (D-MN) used the hearing to promote her bill to tack on extra fees for mega mergers that could be used for additional resources. More resources could be used for merger retrospectives to get a better sense of the success/failures of the agency's merger enforcement, Simons acknowledged. Sen *Ed Markey* (D-MA) voiced concerns over holes in child protection rules, stating that **Google** has said its third most-viewed **YouTube** channel, which features toy reviews, isn't targeted to children and thus COPPA rules don't apply. He sought confirmation that the agency is looking into apps that collect sensitive info, including locations, from children as well as apps that are characterized as educational but saturated with ads. “Any compre-

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WHERE WE'LL BE

1/8/19 CES in Vegas (Jan. 8 - 11)
1/22/19 NAPTE in Miami (Jan. 22 - 24)
1/28/19 ReelScreen Summit in New Orleans (Jan. 28 - 31)
1/29/19 TCA in Los Angeles (Jan. 29 - Feb. 13)
2/25/19 NCTC Winter Conference in Atlanta (Feb. 25 - 26)
3/8/19 SXSW Interactive in Austin (March 8-12)
3/19/19 CFX Roundtable at ACA
3/19/19 ACA Summit in DC (March 19-21)

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- **Dara Behjat**, Cisco Systems
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- **Tony Brown**, Newsy
- **Jonathan Bullock**, Hotwire
- **Cory Carpenter**, MOBITV
- **Michael Chesterfield**, The Weather Channel
- **Laura Dechant**, Philo
- **Rebecca Fabbri**, Boingo Wireless
- **Austin Gaddis**, T-Mobile Home + Entertainment
- **Brittany George**, Alkemy -X
- **Katherine Gessner**, MCTV
- **Cecelia Gordon**, Starz
- **Katherine Grandy**, Jupiter Entertainment
- **Annie Hovland**, DISH
- **Lauren Johnson**, MOBITV
- **Lora Kantorovich**, Comcast Cable
- **Travis Kohlrus**, Eagle Communications
- **Jennifer Kramer**, Crown Media Family Networks
- **Esther Lee**, IFC
- **Toby Leung**, Boingo Wireless
- **Ruben Martino**, Mediacom Communications Corporation
- **Heather McHale**, BBC AMERICA
- **Gabriela Medellín**, Corning Incorporated
- **Rachel Meskin**, GammaRay
- **Emily Moffatt**, MTV
- **Jason Nealis**, RCN Communications & Grande Communications
- **Rob Rader**, Ovation LLC
- **Cathy Reyes**, CNN en Español
- **Mary Shaw**, CTAM
- **Rachel Skidmore**, Skybound Entertainment
- **Henrik Soerensen**, EPIX Entertainment LLC
- **Samantha Stewart**, EPIX
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hensive privacy legislation that Congress considers next year must include special safeguards for children and teens,” Markey said. In addition to assuring Markey, Simons said his agency would look into video game “loot boxes,” which allow in-game purchases for surprise winnings, enhanced skills, etc. The boxes have been classified as a form of gambling in the Netherlands and Belgium due to the unpredictable outcome of each purchase. “Loot boxes will represent a \$50bln industry by the year 2022,” according to research estimates presented by Sen *Maggie Hassan* (D-NH), who said the tactic is present in everything from smartphone games to the latest video game releases. The far-reaching hearing touched on a lot, including Acting Attorney General *Matthew Whitaker’s* role as an advisory board member of **World Patent Marketing**, which the FTC charged with deceiving consumers and compressing complaints (the company shutdown in May after settling for more than \$25mln). Sen *Catherine Cortez Masto* (D-NV) asked about balancing big data as the country moves forward with smart cities and into other high tech areas. It’s an area the FTC is currently exploring in a series of hearings, with commissioners talking up the importance of the agency having rulemaking authority to adapt to fast-changing marketplace. Chopra sounded a confident note, pointing out that existing rules such as COPPA and the UK’s GDPR allow for business to take place with data minimization. “You can still harness some of the benefits without necessarily keeping a dossier on every individual consumer,” he said. “I’m not sure the tradeoffs are incredibly hard. They need to be thoughtful. I think that balance and minimization is the global norm.”

On the Fast Track: ACA filed a petition Monday with the FCC asking it to require **Sinclair** to submit early renewal applications for four of its stations. The stations in question are **WJLA (ABC, Washington, DC)**, **WBFF (Fox, Baltimore, MD)**, **WSET (ABC, Lynchburg, VA)** and **WTVZ (MyTVZ, Norfolk, VA)**. The FCC set out to investigate Sinclair earlier this year, appointing an administrative law judge to find whether the company misrepresented itself while attempting to acquire stations from **Tribune**. “Processing Sinclair’s renewal applications early will permit the FCC to resolve the serious charges it leveled against Sinclair as soon as possible—charges that, if true, would speak to Sinclair’s eligibility to retain any of its FCC licenses or acquire new licenses,” ACA pres/CEO *Matt Polka* said. The Commission does have the power to fast track a course of action and “direct” a broadcast licensee to file its renewal early. Sinclair’s upcoming license renewals don’t hit until 2020, and with Sinclair withdrawing its application to acquire Tribune stations, the FCC would be unable to investigate any concerns from the Sinclair-Tribune proceeding for two years. ACA isn’t alone in wanting early action. On behalf of **The Benton Foundation**, the Communications and Technology Law Clinic at Georgetown University’s Institute for Public Representation submitted a letter backing the association, asking that the Commission act without delay. “The Commission has already ruled that there are



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substantial and material questions as to whether Sinclair is qualified to be a Commission broadcast licensee,” The Benton Foundation counsel *Andrew Jay Schwartzman* wrote. “There is only one way to resolve these questions in a transparent manner that allows public participation, which is to conduct an evidentiary hearing.”

Hole in One: *Tiger Woods* is entering into an exclusive multi-year global content partnership with **Discovery** as part of the latter’s relationship with the **PGA Tour**. **GolfTV**, a streaming service developed by Discovery and the Tour, will launch in January and feature a content collaboration with the 14-time Major champion. While GolfTV will only be available outside the US, the content exclusively owned by GolfTV could be sublicensed in the US. This could mean the programming has the opportunity to air on Discovery properties in the US or on other properties that Discovery would sell to.

Scholarly Opinion: With the **DC Circuit Court of Appeals** to hear oral arguments in the **DOJ’s** challenge of **AT&T** and **Time Warner’s** merger next week, a group of 27 antitrust scholars have asked for 10 minutes of argument time. AT&T objects to giving the scholars time, saying they ignore or mischaracterize much of the district court’s decision granting the merger. The scholars have not filed in support of either party, but AT&T said the scholars align with DOJ’s position and their positions will thus be reflected in the government’s argument. The government has not opposed allowing the scholars time, and alternatively indicated it would be willing to allocate up to five minutes of its 20 minutes of time to the scholars. No word yet if the scholars will get to speak, but a decision should come shortly with arguments slated for Dec 6 in DC.

Trading Spaces: **YouTube Premium** is scaling back its focus on scripted content, sources have told *THR*. The platform will begin stepping back from its scripted strategy beginning in 2020, instead doubling down on its ad-supported business and making all originals free for its users regardless of whether they are YouTube Premium subscribers. This is most likely not the end of the platform’s scripted business, but there will be a “serious budget reduction.”

Google It: **The Walt Disney Company’s** Direct-To-Consumer & International segment is choosing **Google’s** ad technology over that of **Comcast’s FreeWheel** for its digital brands and properties worldwide, ending its relationship with the ad serving firm. Google Ad Manager will power the delivery, optimization and performance of digital advertising for those properties. It’s no small task, as Disney’s combined digital properties reach more than 230mln users worldwide, who spend more than 14bln minutes of time and view billions of videos per month, according to **Comscore**. The deal will also see the two coming together to develop next-gen ad solutions and technologies across video, mobile, apps and display.

Women on Fire: **WICT SoCal** will celebrate those embodying leadership, excellence and advocacy Thursday at the 26th Annual Lea Awards. Six leading female media execs will be celebrated along with former **FCC** commish *Mignon Clyburn* and industry leader *Salaam Coleman Smith*. The honorees include **TNT’s Sarah Aubrey**; **Fox Networks Group’s Jamia Bigalow**; **Charter’s Rhonda Crichlow**; **E!’s Amy Introcaso-Davis**; **Hello Sunshine’s Sarah Harden** and **Cox’s Linda Kavanagh**. Kavanagh is also WICT SoCal’s board member of the year. The gala luncheon will be held at the Beverly Hills Hotel from 11:30am-2:30pm. -- **WICT** is accepting applications for the Betsy Magness Leadership Institute’s Classes 40 & 41 through March 5. The program, which will celebrate its 25th anniversary in 2019, emphasizes core leadership skills like driving and implementing change, communication effectiveness, driving results and executing organizational vision. Since 1994, more than 950 women have graduated from the program.

Princess Diaries: *Craig Gerber* is sticking with **Disney**, signing an overall development deal at Disney Channels Worldwide. Gerber will create and produce animated and live-action series and movies for both **Disney Channel** and **Disney Junior** platforms around the world. He’s been an integral part of the Disney family for seven years, serving as an executive producer on Disney Junior’s “Sofia the First” and creating “Elena of Avalor” in 2016.

Calling All Foodies: **Food52**, a popular online destination for cooks, launched a premium channel on **Xumo** Tuesday. The OTT channel, Food52’s first, will expand the brand beyond its **YouTube** channel, offering new shows with experts from its test kitchen and recipes for every occasion.

Programming: **Acorn TV** completed a deal with distributor **DRG** to be the exclusive North and South American partner for **ITV’s** “Manhunt.” Acorn TV will premiere the drama in North America in early 2019. The streaming service will also premiere travel documentary series “Islands of America” in 2019 as part of the deal.

Our Condolences: “SpongeBob SquarePants” creator *Steve Hillenburg* passed away Monday following a battle with ALS. “His utterly original characters and the world of Bikini Bottom will long stand as a reminder of the value of optimism, friendship and the limitless power of imagination,” Nickelodeon said in a statement.