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What the Industry Reads First

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Balancing Act: ACA Members Aren't Shaking Off Video

Newly christened **ACA Connects** is stepping back from video, but not too far. That was evident during its annual DC gathering Wednesday. Moments after pres/CEO *Matt Polka* revealed the group is changing its name from the American Cable Association to America's Communications Association – ACA Connects, he launched a discussion on the possibility of retransmission consent reform for broadcast stations in this year's Satellite Television Extension and Localism Act Reauthorization (STELAR) legislation. Later in the day, **NCTC** pres/CEO *Rich Fickle* took the stage and reiterated that the co-op is still very committed to supporting the video side of the business. "The bulk of NCTC members still value video as very important to the relationship to consumers," he said. But companies are getting experimental, with Fickle announcing that close to 100 NCTC members have launched app-based TV in the past year (primarily through NCTC's **MobiTV** deal), viewing it as a way to lower the cost of video and provide consumers with rich features. As for STELAR, it's clear ACA Connects is hoping so-called Local Choice finds its way into the bill. The concept, introduced into STELAR discussions in 2014 by a bipartisan group of senators, would let broadcast stations set their own rates direct to consumers, who would then decide what stations they wanted to pay for. Polka believes that broadcasters have already started down this road by going direct-to-consumer with services such as **CBS All Access**. Congress is on recess this week, so Polka played a prerecorded video interview with *Rep Steve Scalise* (R-LA). Scalise has been pushing a bill for years that would eliminate retrans and nix the Copyright Act's compulsory license provisions, allowing broadcasters to sell the programming they license. "One of the arguments that broadcasters like to use [against it] is that this takes away their ability to be compensated for the product. In fact, the opposite is the truth," Scalise said. "My bill actually brings us back to traditional copyright law. Everybody ought to get paid for their content." The last time STELAR made the rounds Rep *Anna Eshoo* (D-CA) introduced a bill that would give the FCC authority to grant interim carriage of a broadcast station during a retransmission consent negotiation and would allow a consumer to purchase a cable package without having to take broadcast stations. All that sounds pretty good to ACA Connects, which hopes to keep chipping away at the current retrans model. One theme that may emerge this Congress is the different treatment of platforms. When it comes to satellite and vMVPDs, "they don't have to follow the same rules that you have to follow

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so it's not a fair marketplace any more," Scalise said. "It's not a fair negotiation when different levels of competition have been injected into the marketplace that didn't exist in 1992."

Won't Back Down: It sounds like Assistant Attorney General *Makan Delrahim* would appeal the \$81bln **AT&T-Time Warner** merger all over again despite losing at the DC Circuit last month. "Some have suggested, some in this room, that it would have been far better for the division to agree to a **Comcast-NBCU**-like behavioral decree rather than suffer a loss in court that resulted in no remedy at all," he told the crowd gathered for the **ACA Connects Summit** Wednesday. "We don't share that view... [The government] has no business imposing a behavioral decree, much less one that would effectively acquire the antitrust division to become an ineffective regulator of the pay TV distribution market for an arbitrary period of years, without being sure that at the end of that period being sure the anticompetitive harm would be gone." Naturally, DOJ's disappointed by losing the appeal, but pleased the court reaffirmed the standard for challenging vertical mergers. His big frustration is that the courts took into account "self-help arbitration remedies" proposed by AT&T and Time Warner when determining whether the challenged merger causes harm. DOJ is skeptical of arbitration remedies when a structural remedy is available, with Delrahim saying that arbitration may never even occur. "Often participating in arbitration requires antagonizing an important business partners and it may be unrealistic to expect the intended beneficiaries of an arbitration hearing to do so," he said. Delrahim also worried about there being no good marketplace benchmarks for an arbitrator to consult. **Comcast-NBCU's** conditions did include arbitration, with Delrahim saying that was less of a concern because Comcast isn't a national carrier.

Broadband Ahead: Video was still part of the chatter at **ACA Connect's** annual DC gathering, but members were clear that broadband is king. "Our focus needs to be more on the internet and broadband, which is where our future lies," said ACA Connects chmn/**MCTV** pres *Bob Gessner*. ACA Connects vice chmn/**Boycorn** pres *Patricia Boyers* noted that her company, like many other ACA members, shifted to more broadband customers than video about five or six years ago. NCTC chief *Rich Fickle* said a formal announcement will be coming soon from the co-op about lowering the costs and improving capacity into markets for broadband. "Our goal is to work with major carriers around the country and regional carriers to unlock some of [the] bottlenecks," he said, with the goal to open up more access, middle-mile transport options and caching and peering. NCTC will be launching a group totally focused on broadband. It recently announced a large scale deal with **Harmonic** that it believes will help foster remote-fi for members.

Day of the Deal: It's finally done. As expected, **Disney** closed its \$71.3bln merger with **21st Century Fox**, acquiring entertainment assets that include **FX Networks** and a 30% stake in **Hulu**. Along with the assets, Disney is receiving ap-

Cablefax: What's Happening... April & May

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MAY	<p>Cable Center Cable Hall of Fame & WICT Signature Luncheon Cablefax will provide the lowdown on this year's honorees and all the details surrounding these annual must-attend events.</p> <p>The Year Was 1979... It was a pivotal year for the industry that included the creation of WICT, ESPN, USA Network. Cablefax looks at what made this such a key year for the industry and how it has changed over the past four decades.</p> <p>The Gatekeepers A series of Q&As with MVPD programming and technology gatekeepers.</p>		

proximately \$19.8bln in cash and assuming \$19.2bln in debt from 21CF. In the final hours before the deal closed, the pair revealed that the per-share value of the merger will be \$51.572626 in cash, or 0.4517 shares of common stock in the new holding company with the Disney and 21CF assets. Disney is still looking to finalize the sale of the 22 Fox RSNs. **Fox Business'** *Charles Gasparino* told ACA Connects attendees Wednesday that an RSN deal could come this week, but it didn't sound far from a sure thing. Some effects of the merger will be fairly immediate, with the acquisitions certainly giving Disney CEO *Bob Iger* a new swath of content to bring to streaming service Disney+ later this year.

Merger Results: **Nexstar** entered into definitive agreements to sell 19 stations in 15 markets for an aggregate \$1.32bln in cash following its proposed acquisition of **Tribune**. **Tegna** will acquire 11 stations in eight markets for \$740mln and **Scripps** is acquiring eight stations in seven markets. Nexstar is still engaged in active negotiations to divest two stations in Indianapolis. The planned divestiture is still subject to **FCC** approval and the closing of the Nexstar/Tribune transaction. Under the deal, Tegna will own 60 stations in 49 markets, and it will grow the Scripps station footprint to 59 stations in 42 markets with a nearly 30% reach across the US. It added two **CBS** stations, two **Fox** stations and four **CWs**. The purchase price was \$505mln for six markets and \$75mln for **WPIX**, the **CW** affiliate in NYC (which Scripps gave Nexstar the option to buy back from March 31, 2020 through the end of 2021). Scripps plans to finance the deal with a mix of term loans and unsecured debt, and anticipates its total leverage ratio, net of cash will be approximately 5x at closing.

Viacom Drops: **Viacom** shares closed down about 4.4% Wednesday, a day after the programmer warned **AT&T** and **DirectTV** viewers that **Nick**, **MTV** and other nets could go dark Friday. Shares hit their lowest level to-date this year. AT&T's stock dropped 0.55%, down to \$30.51 at market close. As in most carriage disputes, Viacom and AT&T are placing the blame squarely on the other's shoulders. "We have made a series of offers that are good for consumers and good for AT&T," a Viacom spokesperson said. "Unfortunately, AT&T is abusing its new market position by favoring its own content... to stifle competition." AT&T responded to the claim by calling Viacom a "serial bad actor in these business negotiations." The carriage deal expires Friday at midnight.

Break It Down: **FCC** commish *Michael O'Rielly* was all about deregulation at **ACA Connects** Summit Wednesday, saying the "entire government oversight model for video services needs a complete overhaul from top to bottom." When reacting to comments from assistant attorney general *Makan Delrahim*, O'Rielly agreed that the FCC and the **DOJ** operate under different statutes and standards, but said "those standards stink." Delrahim painted DOJ as having more flexibility, with FCC tied to statutes. "We have to modernize how we examine the marketplace," O'Rielly said. "All these different segments still exist... everyone's in the same market and the big tech companies are trying to steal everyone's lunch." The ACA crowd was probably less enthused about O'Rielly's comments on C-band, with members worried about potential interference as the band is opened to other uses, including 5G. He asked the operators to keep an open mind. "Work with the Commission to bring this to a speedy conclusion," O'Rielly said. "The key is not having a kneejerk reaction in opposition when complex issues are being considered and resolved."

Calling the Commission: In the latest development in the **Dolan family's** lawsuit against **Altice USA**, *Charles Dolan* has called on the **NY PSC** to get involved. In a letter Tuesday, Dolan requested an immediate comprehensive review of Altice's compliance with the PSC's conditions upon the approval of its 2016 acquisition of **Cablevision**, including **News 12**. Dolan asked for immediate restoration or replacement of all terminated News 12 employees should the PSC find Altice in violation as well as blocks against further staff reductions.

RoboCall, RoboCop: **AT&T** and **Comcast** partnered up to fight the proliferation of fraudulent calls. The companies said Wednesday they can authenticate calls made between the two different providers' networks, a potential industry first. The two said that customers could soon start to see verified calls not only from callers using the same provider, but from other participating parties. The system uses AT&T's Phone digital home phone service and Comcast's Xfinity Voice home phone service, and verifies that a legitimate call is being made instead of a spoof from spammers. The companies stated that consumers will get a notification that a call is verified, and they will roll out the system to home phone users this year with no additional charge. AT&T also plans to introduce the feature to its mobile customers later this year.

Batter Up: **T-Mobile** and **MLB** extended their partnership for an additional four years, on the heels of the ballpark naming rights deal for the Seattle Mariners. Financial terms weren't disclosed, but as part of the deal T-Mobile customers can access a free year's subscription of **MLB.TV** and the **MLB At Bat** app's premium features, a \$118.99 value, thanks to T-Mobile Tuesdays. The carrier is also now the official wireless sponsor of **Little League International**. -- In related MLB news, **MLB.TV** is now available on **Amazon Prime** video channels, allowing Prime members to subscribe to the net and stream regular season out-of-market baseball games live and on-demand. Following a seven-day free trial, fans can subscribe for \$24.99 a month or a one-time payment of \$118.99 for a season pass.

GUEST COLUMNIST

Connecting & Communicating for the Future

Matt Polka, CEO and President, ACA Connects

What's in a name? A name helps define an organization. For ACA, it provides a clue about what we do, who we champion and what we stand for.

Therefore, when an organization decides to change its name, it is a big deal. ACA is doing just that. We are changing our name. Yesterday, the 26-year old American Cable Association becomes ACA – America's Communication Association, with the short form of the association to be known as "ACA Connects." The new name reflects a leading position for the association and its members in the fast-growing telecommunications industry, where technology is rapidly changing how information is provided to and used by consumers.

We realized that what our members deliver is more important than how they deliver it. Our association members, independent broadband companies, are in the business of communications. The distribution method and the technology may change, but our product and our commitment will not.

ACA Connects' new name further supports the idea that through communications the association is making connections with and for its members, and those members are making critical connections for their customers and communities.

ACA Connects reflects those connections. We make connections for our members on multiple levels—

with member companies, with customers, and with policymakers.

While the name may change, ACA Connects' mission remains the same—advocate and support the smaller and mid-sized independent members who serve smaller and rural markets, and competitive areas. The issues facing them and threats to their survival are real.



Matt Polka

We have so much more competition than we did in 1993 when our association was established as the Small Cable Business Association. We changed our name in 1999 to the American Cable Association to reflect the services our members provided all across America. But today the communications our members provide are essential and worth fighting for now more than ever. Our work may have expanded, but at its core, ACA Connects is in the business of ensuring small to mid-size operators have the freedom to do business and serve.

ACA Connects rolled out its new name during its 26th annual Summit March 20th in Washington, D.C. While the name was big news, the packed house was even more interested in how ACA Connects is positioning itself for the future... a future that is full of change, hard work, and hope.

We hope our name reinforces the message of this Summit, which is that ACA Connects is arming its members with insights they need to not only adapt, but also to survive and thrive as they connect and communicate in so many essential ways.

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Think about that for a minute...

Skynet Won't Help

Commentary by Steve Effros

The tragic news out of New Zealand late last week has been met with an odd array of responses. The governing politicians in New Zealand, after mourning the dead and trying to humanely and compassionately address the attacked Muslim community, immediately focused on what lawyers call the “proximate cause” of the carnage; military assault weapons. It would appear that new restrictions on the availability of those weapons will be adopted in New Zealand within a matter of weeks. A second immediate action was to call for a complete blackout on the image or name of the perpetrator to deny a warped sense of martyrdom or fame. Both sensible, direct responses.

But another reaction which has almost overtaken the event itself was the refocusing of attention, especially here, on the “social media” aspects of the tragedy. The fact that the supremacist who shot all those folks just because of religious bigotry also “live streamed” the outrage and that the internet media, particularly Facebook and the like, were not able to immediately suppress the footage.

For some reason the headlines and the investigations have almost instantly turned from a focus on increased hate, irrational bigotry and misplaced “nationalism” to a “blame game” about why Facebook could “only” block 1.2 million out of 1.5 million uploads of the vile video within the first day!

It seems to me the first question should be who the hell are these 1.5 million folks who are trying to upload stuff like this? How did they get this way? What can we do about it? But that's not really within the purview of this column. I'll stick to the telecommunications stuff. The trend-line in commentary seems to be that the “tech” companies have failed, and maybe intentionally failed to be able to “curate” and eliminate access to a video that was purely



designed to promote and glorify hate.

I certainly don't in any way support the continued distribution of that video. But I think it is misplaced to think that the technology we now have has any real capability to fully suppress it. There is all sorts of evidence that “uploaders” were intentionally altering the video to circumvent detection to achieve a successful upload. And we all know that once it is “up there” it's almost impossible to take it all down.

“AI” was the cry! After all, complained the critics, you have algorithms that deal with copyright and porn, why can't you do it instantly here, too? Must be because it's not in your business self-interest! Not fair or accurate. The ability to “fingerprint” or “screen” for things like copyright infringement and porn rely on having material already in the algorithm that can be recognized. That's not the case with “instant” random events like what happened in New Zealand. The “take downs” also don't all happen within a matter of minutes of the event, as was being demanded here.

Yes, the industry can always do better, and has to. But “AI” is not going to solve this problem. “Skynet” is fiction. People still can, and often do, befuddle technology, and it's never perfect. Planes still nosedive. Hate still finds a way around the filters. It always will. The answer is not “AI” technology, although that can help, as can restricting the availability of the means of mass destruction. But what's more important is teaching and displaying by personal example tolerance, compassion and restraint. That comes from leadership. Something the New Zealanders, at least, can be proud they've got.

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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