

Cablefax Daily™

Thursday — April 4, 2019

What the Industry Reads First

Volume 30 / No. 064

The 700: Forbearances At Center of Debate on Save the Internet Act

Any hopes for a calm, bipartisan discussion on net neutrality regulations at **House Commerce's** full committee markup Wednesday were quickly dashed as *Rep Mike Doyle* (D-PA) and ranking member *Greg Walden* (R-OR) duked it out over the Save the Internet Act (AKA "Title II 2.0"). At the heart of the battle were the forbearance provisions that would be codified under the Save the Internet Act. The forbearances would permanently restrict the **FCC** from placing more than 700 regulations, most of which relate to Title II, on ISPs. And while Dems believe that should be enough to get Republicans on board, the minority continued to call for more information on exactly what those forbearances are. "When we're locking into statute forbearances, you would think we'd be able to get a list of those 700 forbearances so we know what we're locking into statute," Walden said. "Let's have transparency and divulge them." Doyle called the focus on the list a delaying tactic by Republicans, saying they needed to worry about what is in the bill rather than what isn't. "I can't image that many ISPs are sitting around with their attorneys saying 'what doesn't apply to us,'" Doyle argued. *Rep Anna Eshoo* (D-CA) also called into question the focus on the list, asking Walden if having that information made available would be enough to have him support the Save the Internet Act. Walden was clear that he is no supporter of Title II, but still wanted to have the entirety of the information before the committee made any decision. *Rep Morgan Griffith* (R-VA) backed Walden, saying it was even more important that the information be made available to the public. "I believe that when you've got a bill that's going to lock into law 700 exceptions to the rule, the American people have a right to know and I have a duty to know," Griffith said. For others in the minority, there were five critical people missing from the markup that should have been able to offer comment on the legislation. "The so-called Save the Internet Act is being rushed to the floor next week without the opportunity to ask questions of the FCC commissioners, who ostensibly this bill is going to put in charge of the internet," *Rep Bill Flores* (R-TX) said. Doyle was able to score at least one win during the markup as the committee approved an ISP exemption amendment. ISPs serving fewer than 100K customers would be exempt from an enhanced transparency rule related to performance characteristics and network practices from the 2015 Open Internet Order for one year. After plenty of back and forth, one Republican said what some have been thinking since the Save the Internet Act was introduced: this is not the piece of bipar-

THE FAXIES

RECOGNIZING EXCELLENCE IN PR, MARKETING & CONTENT

In 2019, The FAXIES have expanded to include content & design. The FAXIES mission to find the best of the best regardless of where it originated or how consumers watch it.

PR & Marketing Categories

- Early Bird Deadline: April 12
- Deadline: April 26

Content & Design Categories

(Formerly the Program & Trailer Awards)

- Early Bird Deadline: June 14
- Deadline: June 21



Take advantage of the early bird pricing to save \$275 per entry!

www.TheFAXIES.com

Cablefax Daily (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefax.com ● 301.354.2101 ● Editorial Director: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Publisher: Michael Grebb, 323.380.6263, mgrebb@accessintel.com ● Senior Editor: Sara Winegardner, 301.354.1701, swinegardner@accessintel.com ● Associate Editor: Mollie Cahillane, 212.621.4951, mcahillane@accessintel.com ● Acct. Exec: Olivia Murray, 301.354.2010, omurray@accessintel.com ● VP Marketing: Amy Jefferies, 301.354.1699, ajefferies@accessintel.com ● Director of Marketing: Kate Schaeffer, kschaeffer@accessintel.com ● Prod. Mgr: Joann Fato, jfato@accessintel.com ● Kerry Smith, Divisional President, Marketing & Media Group, ksmith@accessintel.com ● Group Subs or Subscription Questions, Client Services: 301.354.2101, clientservices@accessintel.com ● Annual subscription price: \$1,699.97/year ● Access Intelligence, LLC, 9211 Corporate Blvd., 4th Floor, Rockville, MD 20850

tisan legislation folks are calling for. “If we really want to address blocking, throttling and paid prioritization, we should at the end of the process have a bill that will pass the Senate and the president will sign,” Rep John Shimkus (R-IL) said. “Otherwise, this is just an exercise in futility.” Prospects indeed look dim in the GOP-controlled Senate. As for the House, the Commerce committee was still debating the legislation at 5pm Wednesday (the markup began at 9:30am).

Don't Deny Us: Retrans concerns raised in the **Nexstar** and **Tribune** merger review represent “gratuitous attempts to convince the Commission to single out Nexstar for unnecessary and restrictive regulations” the broadcasters told the **FCC**. The two also argue that there is no basis for dismantling Tribune’s existing combination of two Top-Four stations in Indianapolis as some, including **NCTA**, have suggested. They argue that the Indianapolis combo already exists and keeping it will deliver public interest benefits. Nexstar and Tribune are asking the FCC to dismiss petitions to deny the \$4.1bn deal, arguing that the petitioners have failed to establish standing as parties in interest. **DISH** and **Frontier**, which both filed petitions to deny, “allege nothing more than ‘remote, speculative, conjectural, or hypothetical’ risks that the combined company might engage in anticompetitive conduct.” A coalition of public interest groups, including **Sports Fan Coalition**, **Public Knowledge** and **Common Cause**, failed to identify a single direct, non-speculative injury they would suffer from the transaction, the broadcasters said. The companies dismissed calls that the FCC hold off on review until all of Nexstar’s divestiture plans are announced as a delay tactic. Nexstar has entered into contracts to divest 19 stations and expects to finalize a deal to sell the remaining two stations that need to be divested to meet regulatory limits in “the imminent future.” Importantly, given some of the concerns with the nixed **Sinclair**-Tribune deal, the broadcasters said “none of the divestiture buyers will receive services from Nexstar (beyond customary short-term transition services) after they are divested.”

More Disney DTC Estimates: **Barclays** projects that **Disney** could add 170mln subs between **Disney+**, **Hulu** and **ESPN+** by 2025, making its OTT presence comparable in scale to **Netflix** and **Amazon**. Based on these assumptions, the analysts believe Disney has the opportunity to potentially gain about 58mln Disney+ subs and 88mln Hulu SVOD subs in that period. In a new research note, the firm lays out the argument that ESPN+ should become a sports aggregator, even offering content Disney doesn’t have the rights to through plug-ins such as **Twitch** and **MLB.TV**. As for Hulu, Barclays argues that Hulu should take on an Amazon-like model offering its library along with Disney+, ESPN+ and potentially third-party services like **HBO Now**, **CBS All Access**, etc. “In this iteration, Hulu effectively becomes what Apple TV essentially wants to be. Disney’s unique set of assets and differentiated brands make it one of the few that can actually do this on a large enough scale,” said a Barclays research report.

5G Cities: Mobile 5G is a reality as of Wednesday, with **Verizon** turning on its 5G Ultra Wideband Network in Chicago

**Cablefax Selected by SCTE•ISBE
as Exclusive Partner for the Official Show Daily**



Supercharge Your Exposure!

“As the only official publications of cable’s premier trade event, our **Cablefax SCTE•ISBE Cable-Tec Expo Show Daily** editions and video coverage will give advertisers and audiences new opportunities to connect with key decision-makers in the industry”

– Cablefax Publisher Michael Grebb.

**Featuring Expanded Coverage in
Print, Online & Video Show Dailies**



Space is selling quickly! Contact Olivia Murray at omurray@accessintel.com or 301.354.2010

and Minneapolis. Early adopters should expect to see typical download speeds of 450Mbps and latency of less than 30 milliseconds, according to the provider. Even though the switch has been flipped, there's no telling how much immediate impact the networks will make in the cities. It's available in limited areas and users must be using the **Motorola** moto z3 smartphone combined with the 5G moto mod before they can access the commercial 5G network. Verizon announced in February that it is planning to launch the commercial 5G service in more than 30 cities by the end of the year.

On Board: T-Mobile has a new friend when it comes to its mobile video plans. It is entering into a content distribution agreement with **Viacom** that would bring live linear feeds of Viacom channels and on-demand content to T-Mobile customers. That's about as much detail as we have for now, as T-Mobile awaits approval for its merger with **Sprint**. The proposed plan is to first launch an in-home TV solution before introducing mobile services with Viacom as a launch partner. The deal comes about a week after Viacom renewed its distribution with **AT&T** for content across multiple platforms and products.

Auction Alert: The **FCC** is ready to authorize \$280mln in winning bids in the **Connect America Fund Phase II** auction. To be authorized to receive the total 10-year support listed, they must meet certain obligations, including providing a letter of credit, by 6pm ET April 17. Several winning bidders have notified the agency that they do not intend to pursue some or all of their winning bids. "These bidders are in default and subject to forfeiture. We will refer these defaulting bidders to the Enforcement Bureau," the FCC said. "The Commission expects all bidders to act in good faith and is taking voluntary defaults very seriously." In the event of an auction default, the agency said a base forfeiture per violation of \$3K could potentially be imposed (or 5% of the bidder's total assigned support for the bid for the term, whichever is less). Among the companies listed in default in the CAF II auction are **Fidelity Communications (Cable ONE)** just announced a deal to buy it for \$525.9mln), **Pine Cellular Phones** and **SyncWave**. -- The **FCC** is switching up the process for its 24Ghz band auction, with bidding moving to five half-hour rounds starting Thursday. The auction had featured three one-hour rounds each day. The auction has brought in gross proceeds of more than \$1.78bln through round 43.

Robocall Cop: Senate Commerce unanimously passed a bill by Sens **John Thune** (R-SD) and **Ed Markey** (D-Mass) that increases penalties for robocall violations and promotes call authentication as well as the adoption of blocking technologies. **NCTA** said it looks forward to working with leaders on full Senate passage.

Ad Challenge: A panel of the **National Advertising Review Board** (NARB) recommended that **Comcast** discontinue its advertising campaign that implies **AT&T** "deceives" customers regarding the speed tier, speed or reliability of its internet service and the availability of AT&T Fiber. However, the org said that Comcast could continue its "most reliable network" advertising claim, so long as it remains substantiated by the most available data. The advertising was first challenged by AT&T to the National Advertising Division, which found that Comcast should modify its advertising. Comcast then appealed the decision to NARB. Comcast, in its advertiser's statement, "thanks NARB for its review and will comply with the panel's recommendations."

Next Gen: NAB announced the successful transmission of a **Nielsen** audience measurement watermark using ATSC 3.0. The transmission is part of an ongoing collaboration between broadcasters and manufacturers for the transition to "Next Gen TV." The process was completed last week at the NAB/CTA ATSC 3.0 test station in Cleveland.

Sports Emmys: The 40th Annual Sports Emmy Awards nominees have been announced and will be honored on May 20. **ESPN** leads the pack with 56 nominations, followed by **NBC Sports Group** with 38 and **CBS Sports** with 27.

LinkedIn Top Companies: **LinkedIn** released its rankings of the 50 most sought-after companies based on what its members are doing. **Google/YouTube** parent **Alphabet** is in the No 1 slot, followed by **Facebook** and **Amazon**. But there are some more traditional media names on the list as well. **ComcastNBU** ranked 15th, with sales, operations and engineering listed as the job functions with the most new hires. **Walt Disney** took the #17 spot (jobs with the most new hires; operations, biz development, and media & communications). Also making the cut is **Verizon** (#28; most new hires coming in sales, engineering and IT).

People: Quil, the joint venture from **Independence Health Group** and **Comcast**, tapped **Carina Edwards** as its CEO. She will lead the new digital health company's efforts to provide patients and caregivers personalized content and info. She comes over from **Imprivata**, where she served as svp, customer experience and corporate development.

Faxies Call for Entries: The Faxies are the elite industry awards honoring the people, shows and networks who excel in marketing and PR. To be considered, campaigns, PR initiatives and programs must have taken place (either in part or in full) between Jan 1, 2018 and May 1, 2019. The early bird deadline to enter at thefaxies.com is April 12, with final submissions due April 26.

Think about that for a minute...

The Rabbit Hole

Commentary by Steve Effros

Lewis Carroll's cautionary tale about the dangers of going down a rabbit hole came to mind after the comments to my column last week started to arrive. For those of you who missed it, I suggested that the best way to deal with the telecommunications policy mess we are now in is to start from scratch and see if there's some totally new way to approach it.

I noted that because there are so many moving pieces to this puzzle, it might be best to avoid assigning the whole task to one existing regulatory agency. Instead, a new group could be formed to act as a sort of gateway to at least define which problem or issue was being addressed and then assign and coordinate it to whichever existing regulatory entity was most suitable.

Sorry, a long way to start out, but as you will see, this all gets incredibly complicated. I do intend to devote considerable time to this subject, but not all at once, so I promise I won't dwell on it too much. I do think it's important, though, and should not be relegated to the academics, and certainly not to the politicians! There's no question we're going to have to find some new approaches to the issues that are now increasingly facing us, and having the folks who are actually in the trenches think about and participate in the discussion is critical.

One of those folks is Mark Zuckerberg. He just wrote an op-ed piece last weekend saying he (Facebook) now agrees that new regulation is necessary, that some standards have to be established for curation, editing, publication, distribution, etc., and that he thinks the government ought to set the rules! Translation; he doesn't want to be responsible for what is going on now. There's a content creation and distribution ecosystem that seems to be growing so fast, so big, and so powerful that it may



become uncontrollable.

We have a new telecommunications world where the distribution network, the information (video, data, etc.) creation, and the consumer are all merging. There are significant impacts, some intended, some not, everywhere. The business models for video distribution, for instance, are changing as companies spend huge amounts of money to control content creation but do not rely on revenue from its distribution. Social networks are created that are allowed, again, intentionally or not, to become one of the leading sales outlets for things like deadly opioids, or the megaphone for live video of mass murders. Something needs to be done. But what? By whom?

Just thinking through all the issues can give one a massive headache. Privacy, curation, editorial control, cross subsidy, network effects, disruptive business plans. And that's just the start. Neither the FCC nor the FTC are equipped to handle or have expertise in all those issues. That's why I'm suggesting that maybe the best thing to do is create a gatekeeper. As these issues arise, that entity could establish the knowledge base to at least assign the various interlocking issues to appropriate bodies to be explored and (maybe) regulated or ruled upon. The gatekeeper wouldn't be the decision maker, thus keeping it at least one step removed from the politics of all this.

Obviously, given last week and this week's column, and your feedback, I'm refining this thinking on the fly, and I need your input. I'll keep you all in the loop as to where it's going, and hopefully we won't find any little vials saying "DRINK ME" along the way!

Steve

T:202-630-2099
steve@effros.com

(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.)



JOIN US

in New Orleans
May 20-22, 2019



Register Now!

www.mediafinancefocus.org