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Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Down Payment: Real Estate Left Behind By Corporate America

Remote work is here to stay, and nearly three years after the start of the pandemic, the impact of the transition away from the office is still being felt by those leasing commercial space and the service providers connecting them all.

With many workers either embracing hybrid or remote schedules and inflationary pressures forcing companies to make difficult financial decisions, real estate sales have become a growing area of opportunity for businesses to cut costs without reducing their workforce. **Cogent Communications**' corporate business sees customers buying bandwidth to serve large multi-tenant office buildings or in carrier-neutral data centers, and those customers include professional service firms, financial service firms and educational institutions. The corporate business represented 57% of Cogent's revenues in 3Q22, and it's taken a massive hit since the start of the pandemic.

"We have seen our growth rate go from 11% to -8%," Cogent Founder/CEO *Dave Schaeffer* said during a Wednesday webinar hosted by the **Georgetown Center for Business and Public Policy**. "We have, as the pandemic has waned, recovered and we're back to about 1% positive growth, but nowhere near the 11% that we had experienced historically. That's really due to corporate uncertainty as well as an increase in vacancy in the buildings we serve."

Prior to the pandemic, the average vacancy rate for one of the buildings Cogent serves was 6%, and while things have improved since the 18% peak reached during the pandemic, it still sits far above historical averages at 17.7%. The hardest hit markets include areas like San Francisco where social media companies have built campuses to entice the best and brightest to join their ranks, while markets like Miami, Houston and Dallas have been able to withstand the worst impacts. Chicago, New York and Washington, DC, fall somewhere in the middle.

"Also, we've seen the average new lease tends to be for about 20% less square footage," Schaeffer said. "The average corporate user pre-pandemic designed their networks to accommodate 97% of employee work days in office and 3% remote. Today, that design criteria is 60% of work days in office and 40% remote."

Cogent also works with service and content providers through its Netcentric business. Given his appearance at an event for a Washington institution, Schaeffer couldn't help but weigh in on things inside the Beltway. The **FCC** is kicking off another January with only four sitting commissioners, but he believes this Commission has proven there are plenty of issues it can make progress on without that fifth seat filled. Unfortunately, there likely won't be any action on net neutrality, which he deemed is the biggest issue in need of some resolution, at the agency or in Congress, for some time. Where the most good can be done, in his mind, is by continuing to focus on actions that will stimulate the spending of private dollars on network improvements and the expansion of footprints to hard-to-reach places.

"I think there really does need to be a new regulatory paradigm that will allow for private capital to come in and get quick returns to modernize U.S. infrastructure and do so in a way that does not limit the competition at the access layer," Schaeffer said.

He also believes this is the year that authorities need to iron out potential updates to Section 230. Section 230 reform has been a hot topic for a number of years on Capitol Hill, and last year saw the debate heat up with **U.S. Supreme Court** Justice *Clarence Thomas* saying in a statement last year that he believes the high court, if given the opportunity, should take the matter into its own hands should lawmakers be unable to reach a consensus on the regulatory framework moving forward.

"230 gives a lot of content companies an umbrella that allows them to write algorithms that monetize very disruptive content and they're not held accountable," Schaeffer added. "They're the ones writing the algorithms that are promoting the content, so they definitely have culpability control."

MORE WANTED FROM STANDARD GENERAL, TEGNA

While **Standard General** and **TEGNA** recently proposed several conditions around retransmission consent for their $5+ billion merger, some argue they don't go far enough, particularly given **Cox Media** owner **Apollo Global Management**'s involvement in the deal. "While the commitments offered by Standard General are a first step towards averting these harms, they contain significant deficiencies that undermine their effectiveness. To ensure that the conditions offered actually prevent the manipulation of after-acquired station clauses and change in control provisions, they should be broadened and expanded to cover all of the applicants, including Cox," **DISH** told the FCC. Cox Media Group stations have been dark on DISH since Nov. 28 as the two haven't been able to reach a new retrans agreement. Standard General and TEGNA have said they would agree to conditions proposed by **NCTA**, but the association told the FCC this week that what the companies outlined doesn't always accurately reflect the six conditions it sought. For example, NCTA proposed no employee or agent of TEGNA or CMG/Apollo involved in retransmission consent negotiations may review any retrans agreement to which the other entity is a party, or receive non-public information with respect to such agreement. "The applicants add the phrase 'from the other' to the ban on receiving nonpublic information, which would narrow the condition," NCTA told the FCC in comments Tuesday. The association took issue with other proposals, including the applicants dropping Apollo from their proposed condition requiring maintenance of an online public file list of all other broadcast stations with which they have sidecar agreements or attributable interest. The **American Television Alliance**, made up primarily of MVPDs seeking reform of retransmission consent rules, piled on, asking that all conditions apply to all entities affiliated with the companies. The broadcasters have said they would voluntarily and irrevocably waive enforcement of any term or condition of a retrans agreement that would result in a retrans agreement between Cox Media Group and any MVPD applying to any current TEGNA station that would be controlled by Standard General following the deal's close. ATVA asked the FCC to prevent the parties from evading the condition by creating simultaneous expirations of their respective contracts.

PROPOSED TWEAKS TO FCC BROADBAND LABELS

When it comes to those **FCC** broadband labels, the consensus seems to be that operators and trade associations are supportive of the idea but are concerned about the details. The FCC approved an order in November that requires broadband providers to display easy-to-understand labels to allow consumers to comparison shop for broadband services. Several petitions came into the Commission this week asking for clarifications and adjustments to the rules. A joint petition from **NCTA**, **ACA Connects**, **CTIA**, **USTelecom** and **NTCA – The Rural Telecom Association** wants the FCC to nix requiring an itemization of recurring government-imposed monthly fees that providers pass through at their discretion. They argue ISPs should be able to include a statement on the label that additional fees may apply and that they may vary depending on location, rather than explicitly iden-

The WHO and the WHY

CFX's spotlight on recent new hires & promotions

MELINDA
Little
VP, GOV'T AND REGULATORY AFFAIRS
COMCAST

3 THINGS TO KNOW

- Melinda is shifting gears at Comcast as she moves from her role of VP of Government Affairs at the company's Central Division HQ in Atlanta to her new position within the provider's "Big South" region. She'll oversee a government affairs and community impact team that's dedicated to broadband expansions, franchising, digital equity and community outreach in the southeast.
- Before Atlanta, Melinda was Sr. Director of Government Affairs at Comcast in Houston. Not only is she a past Chairman of the Texas Cable Association, but she also served on multiple city boards, including the Houston Public Library Foundation Board and the Montrose Tax Increment Reinvestment Zone 27/Montrose Redevelopment Board.
- In 2021 she was given the "Making Change/Changing Hearts" Award by the HEART Program, a nonprofit that helps Houston adults with intellectual or developmental disabilities achieve their potential through various vocational and training programs. Melinda was also listed on Houston Magazine's 50 Most Influential Women in 2018.

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tifying each and every fee that may apply. At minimum, they want providers to be deemed in compliance if they identify generally the maximum dollar figure that could be passed through to the consumer per month. Itemizing every fee is complex and often varies by individual customer based on their location, equipment and other factors, the associations said. The petition also asks the FCC to clarify that ISPs can document business practices regarding broadband labels that occur through alternative sales channels rather than requiring extensive documentation of every individual customer interaction through an alternative sales channel. CTIA filed a separate petition seeking clarification that wireless providers have flexibility to create labels that accurately describe their offerings rather than using the same parameters as wireline provider labels. **Altafiber**, **Crown Castle**, **Metro Fibernet** and **Uniti Fiber** joined together to petition against applying the label requirement to enterprise E-Rate or Rural Health Care service, arguing such an interpretation is contrary to Congressional intent and overly burdensome. Those federal programs provide broadband services for school districts, libraries and health care providers.

NTIA INVESTIGATING TIES BETWEEN DATA, HARM

NTIA launched a request for comment Wednesday on how companies' data practices may impose greater harm on marginalized and underserved communities. NTIA Administrator *Alan Davidson* previewed the proceeding at **CES** 2023 earlier this month, calling it the start of the agency's work to investigate issues that are at the intersection of privacy and civil rights. The comments will inform the agency as it prepares a report analyzing whether and how those data practices can negatively affect certain communities and how existing civil rights and privacy laws can be used to address privacy harms. Comments will be due 45 days from publication in the Federal Register.

CARRIAGE

Great American Living scored some new distribution, with **Altice USA** set to add it in select lineups starting next month. **Optimum** already carries sister net **Great American Family**, but will make it available in HD in select lineups in February.

UPFRONT MUST GO ON

Cutbacks at **AMC Networks** don't extend to its upfront, which is slated for April 18 at Jazz at Lincoln Center. The evening is expected to be similar in scale to last year's upfront event, which featured 200-250 attendees. It will be complemented by a series of in-person and virtual custom agency presentations in the weeks that follow. "We are looking forward to the most innovative and future-facing upfront in our history, with a focus on partnering with marketers around targeted audiences, creative ad products and an exciting slate of high-quality programming that will build on our proven ability to engage passionate fan communities around compelling franchises and universes," Chief Commercial Officer *Kim Kelleher* said in a statement.

SAIL THE SEAS WITH STARLINK

Cruise company **Carnival** is adding **SpaceX**'s **Starlink** across its global fleet to provide faster service, expanded capacity and more reliable Wi-Fi connection on a global scale. The rollout started with the Carnival Cruise Line and AIDA ships back in December, with future expansion set to other cruise brands such as Princess Cruises, Holland America Line and Seabourn. Carnival CEO *Josh Weinstein* said Starlink will provide additional bandwidth that will help implement new guest services, as well as enhance operational functions with onboard equipment and communications.

NETFLIX, NIELSEN EXPAND PARTNERSHIP

Nielsen agreed to a multiyear deal with **Netflix** to provide linear and streaming audience data across the U.S., Mexico and Poland. Netflix will use Nielsen's National TV measurement data and streaming platform ratings in the U.S. and subscribe to cross-platform audience insights for Mexico and Poland's respective markets.

RATINGS

The 2023 College Football Playoff National Championship helped keep **ESPN** atop the weekly primetime ratings among cable nets. Despite the game's viewership being down as Georgia raced past TCU, the sports network averaged 3.05 million viewers P2+. **Fox News** followed in second with 2.21 million and **MSNBC** came third with 1 million. **Hallmark Channel** and **HGTV** filled the final two spots in prime with 870,000 and 838,000, respectively. For total day, Fox News was first with 1.47 million viewers, with ESPN (881,000), MSNBC (659,000) and Hallmark Channel (461,000) behind FNC. HGTV capped the top five with 459,000. – Saturday's broadcast of the Miss Universe competition on **Telemundo** had an average of 2.4 million viewers, according to **Nielsen**. The broadcast also saw 875,000 A18-49 and 375,000 A18-34 tune in, which helped the show to a 54% boost among total viewers YOY.

WELCOME TO HOLLYWOOD

Davis Wright Tremaine opened a new office in Culver City, California, the home of film studios, streaming companies and production houses. Seven of the firm's partners will take up residence in the office, including *Nicolas Jampol*, *Brad Miller* and *Cheryl Wei*.

PROGRAMMING

Pet rescue expert *Larissa Wohl* and author *Beth Stern* will host the first ever edition of "Great American Rescue Bowl." The two-hour special will premiere Feb. 12 at 4pm on **Great American Family**. – On the heels of its Season 2 premiere that garnered 4.1 million multiplatform viewers, **Starz** ordered "BMF" for a third season. New episodes of the second season are available on the Starz app and on **Lionsgate+** internationally, with its linear releases happening Fridays at 8pm.

PEOPLE

GCI promoted *Deborah Ferrell* to the newly created position of Senior Director of Diversity, Equity and Inclusion. The company created the role as part of an initiative to create a more welcoming work environment and guide GCI toward its DEI goals. Ferrell will oversee the implementation of an enterprise-wide strategy to encourage empowerment and belonging, and she'll also work with teams to analyze areas of the company where DEI practices should be implemented.

Think about that for a minute...

The Advertising Challenge

Commentary by Steve Effros

When I first started out at the FCC as part of the "Cable Taskforce" (there was no Cable Bureau yet) we researched how other countries were regulating both broadcast television and this new upstart called "CATV". I was surprised by what they were doing in Italy.

Broadcasters there had a restriction on when they could show ads. It was either before or after a program. No breaking into the show. What happened, however, was fascinating. The large group of ads shown between the programs became a real creative challenge. Who could make the best, the funniest, the most poignant or most attractive ad? Who could be creative enough to grab a viewer's attention during that interval?

Much to everyone's surprise, the advertising blocks became one of the most viewed segments on Italian television! Creativity flourished. We didn't think that would happen here, and it was never seriously considered. Too bad. But now may be the time to think about it again. Advertising is starting to intrude on viewing, and I suspect it's going to have an adverse effect unless it's done well.

It's hard to miss the fact that many of the "subscription" streaming services, as I've noted in these columns for a long time, are losing money big time. The days of "lowballing" the price of the service in order to get folks to sign up can't last. There are only two real options; increase prices or find a second revenue stream to cover the cost of remaining competitive. The major streaming services are doing both.

The most popular streamers are now slowly but surely raising their pure subscription price to what looks close to a $15 to $20 norm. That starts getting self limiting. All these services are counting on maintaining subscribership by offering exclusive programming. Either programs or rights (like sports) they buy at ever-spiraling cost, or by creating original content, which is also becoming prohibitively expensive. Since viewers now are using on average five streaming services, you can see that very soon these prices, linked with a "core" service that also provides local broadcasting, will look very much like a cable bundle, the very thing consumers say they are want to get away from!

So the other option is to insert advertising into the mix. The way this is being presented is that the streaming service with ads is being offered at a "lower price." In fact what's happening is that what used to be the service is being offered at a higher price, and advertising is making up the difference on the original subscription service.

Will it work? Only if it's done very carefully, and so far I'm not experiencing much care as I watch a program suddenly being chopped off to insert what may be a totally inappropriate ad. Let's face it, there are a lot of movies out there that were intentionally shot so they could eventually be shown on broadcast, advertiser supported television. They have natural breaks, just as most television series programs have.

But a lot of the current streaming services show movies and programs that were not intentionally designed that way. The chopping and pasting of ads in the middle of those shows is jarring. Are viewers willing to put up with it? Well, maybe, if the services learn, fast, how to be very discerning and careful as to how, when and what to insert. It's not happening so far. Will viewer anger lead to upgrading or abandoning that service?

News broadcasters learned long ago that if there's a plane crash you don't then run an airline commercial! Without saying more, it should be obvious that if you're going to cut into a love scene in a movie, be real careful about when, and what you show next! A word to the wise...

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.)