Senate Dems Float Bill To Protect Muni Broadband

Would PRE-EMPT STATE laws blocking buildouts

1/26/2015 8:00 AM Eastern

By: **John Eggerton**

WASHINGTON — Fresh off of hammering home the issue at a Senate Commerce Committee network-neutrality hearing (see Rules), Sens. Cory Booker (D-N.J.) and Sen. Claire McCaskill (D-Mo.) last week teamed up on a bill that would prevent state or local governments from limiting municipal broadband buildouts.

The draft of the Community Broadband Act states flatly that "no statute, regulation or other legal requirement of a state or local government may prohibit, or have the effect of prohibiting or substantially inhibiting, any public provider from providing telecommunications service or advanced telecommunications capability or services to any person or any public or private entity."

Booker had telegraphed the bill in a passionate defense of so-called "muni broadband" at the hearing, but an even more prominent Democrat — President Obama — had signaled in the run-up to his State of the Union speech that those state laws were also on his hit list.

"In too many places across America, some big companies are doing everything they can to keep out competitors," Obama said in a Cedar Falls, Iowa, speech — delivered at a city-owned broadband provider — prior to the State of the Union. "Today in 19 states, we've got laws on the books that stamp out competition and make it really difficult for communities to provide their own broadband the way you guys are. In some states, it is virtually impossible to create a community network like the one that you've got here in Cedar Falls. So today, I'm saying we're going to change that. Enough is enough."

Federal Communications Commission chairman Tom Wheeler said he planned a February vote on petitions from Chattanooga, Tenn., and Wilson, N.C., to pre-empt state laws, and Booker last week said he was waiting for that decision.

Booker said the GOP-backed net-neutrality bill draft would remove the FCC's ability to lift those barriers.

In a Republican-controlled Senate and House, the odds of Booker's bill passing are long, but Booker had one high-profile ally in Sen. Ed Markey (D-Mass.). "This legislation will support the ability of cities to decide for themselves whether or not they would like to build their own broadband networks and provide community members with high-speed Internet service," Markey said of the bill. "I thank Senator Booker for his leadership introducing the Community Broadband Act, which will support more options in the broadband market and greater local choice."

Markey also called on the FCC to get moving on flexing its own pre-emption powers. Wheeler has said he thinks the FCC has the authority to pre-empt local laws and he shares the president's view that the bills are the work of ISPs trying to foreclose competition.
- See more at: http://www.multichannel.com/senate-dems-float-bill-protect-muni-broadband/387211#sthash.XBiKnWB9.dpuf

Multichannel News

Charter, Comcast Make Set-Top Moves

Humax Added to 'Worldbox' List; New IP Box For Comcast Hits FCC

1/26/2015 8:00 AM Eastern

By: Jeff Baumgartner

TakeAway

Both Comcast and Charter are thinking inside the box with orders of their own respective next-generation set-tops.

Death to the set-top! Long live the set-top!

While the functions of set-top boxes continue to get virtualized within tablets, smart TVs, PC browsers, smartphones and other connected devices, reports of the device's death may be greatly exaggerated.

Two of the largest U.S. cable operators are pushing ahead with plans to order more. Charter Communications has already begun to expand the vendor base for its new "Worldbox," and at least one Comcast supplier is pushing ahead with a next-generation, IP-only set-top client device.

EXPANDING THE WORLDBOX WORLD

Charter confirmed its selection of Humax as the second source for the Worldbox, the MSO's new hybrid quadrature amplitude modulation/Internet-protocol device lineup that will run the Stamford, Conn.-based MSO's downloadable conditional access system (DCAS) and its new, cloud-based user interface.

Charter wouldn't say how much Worldbox business is to go Humax's way, but the South Korean vendor is officially the MSO's second source for this new class of device. At last month's International CES, it said Cisco Systems was the first supplier of the Worldbox, which will initially comprise HD DVR and non-DVR models.

At the time, Cisco was characterized as a “key” supplier of Worldboxes through 2015, on tap for a “substantial share” of the devices heading Charter’s way.

Charter hasn’t announced any other Worldbox suppliers. However, Arris hopes to be in the mix, as it will have “equal opportunity to bid on the Worldbox [business], as any other competitor,” Bob Stanzione, Arris’s chairman and CEO, said at an investor conference earlier this month.

The Charter win gives Humax’s U.S. cable ambitions a boost. Last April, Time Warner Cable announced that it had picked Humax to build the MSO’s first device based on the Reference Design Kit, a pre-integrated software stack for video and broadband devices that is being managed by Comcast, TWC, and Liberty Global. It’s not known how that deal will carry forward if and when Comcast and TWC complete their proposed merger.

FCC KICKS XI4’S TIRES

The Xi4, a next-generation IP set-top for Comcast’s X1 platform, appears to have taken a step toward deployment readiness after the Federal Communications Commission recently tested a Cisco Systems version of the device.

The FCC filings on the Xi4 don’t provide much detail as to its capabilities, but Comcast Cable senior vice president and general manager, video services Matt Strauss told *Multichannel News* at last year’s Cable Show in Los Angeles that the Xi4 is a smaller version of the Xi3, Comcast’s first IP-only video client product.

Comcast hasn’t made any further announcements about the Xi4, but confirmed last fall it had had begun to deploy the Xi3, initially supplied by Pace, with plans to make it “widely available across our footprint in Q1 or Q2 of [2015].”

Comcast is also working on a next-generation of the XG1, the HD-DVR/gateway that currently anchors the MSO's X1 platform. A rendering of that product, from Cisco and branded as the XG2, appeared online late last year.
- See more at: http://www.multichannel.com/charter-comcast-make-set-top-moves/387214#sthash.vspwgnrg.dpuf

Multichannel News

Kill Bill: Democrats Diss 'Net Effort

Bipartisan Support in Short Supply as GOP Preps Pre-Emptive Strike

1/26/2015 8:00 AM Eastern

By: John Eggerton

TakeAway

Cable operators could face Title II classification unless Congress can hammer out an alternative.

WASHINGTON — It is not impossible that a Republicanled legislative effort to pre-empt the Federal Communications Commission from reclassifying Internet access as a common-carrier service before the agency's planned Feb. 26 vote on new rules will succeed, but the odds appeared long last week.

Cable operators were pushing hard for that outcome through one of their highest-profile advocates, National Cable & Telecommunications Association president Michael Powell (see sidebar), who, as FCC chairman in the early 2000s, concluded that Internet access should be treated as an information service, not a telecommunications service under Title II of the Telecommunications Act of 1996. That conclusion was supported by the U.S. Supreme Court in its 2005 N*CTA vs. Brand X Internet Services* decision, in which it ruled that cable companies could forbid competing ISPs from using their broadband pipes.

DEMS QUIET AT HEARINGS

But the lack of Democratic support for what was billed as a bipartisan bill was obvious from a pair of hearings on network-neutrality legislation last week that served mostly to showcase key, and still-contentious, issues in the years-long debate over net-neutrality rules, with the draft legislation as the latest flashpoint.

Republican lawmakers in both the House and Senate suggested they were willing to adjust the bill to respond to various Democratic critics, and said their goal was to protect the open Internet and innovation and investment at the same time.

But even Democrats who did not reject the legislative effort on its face suggested it could be on a parallel track to new FCC rules based in Title II, and said the regulator should not wait around for Congress.

Even Powell stopped short of asking the FCC to delay a planned Feb. 26 vote on a new Internet Order, which is widely expected to be based on reclassification of Internet-service providers under Title II rules: Powell's point was that the chairman gets to set the agenda. That might have been professional courtesy, from a former chairman to current FCC chief Tom Wheeler.

If the FCC does go ahead with the Feb. 26 vote, Wheeler opts for Title II, and if he has at least two other votes — all of which looked likely at press time — the FCC is headed for another court battle.

At both Capitol Hill hearings last week, Meredith Attwell Baker, president of cellphone trade group CTIA– The Wireless Association, used the venue to level an ultimatum. If the FCC goes the Title II route, she said, the CTIA will sue — and it expects to win.

Verizon Communications, a CTIA member, was the only company to sue the FCC over the previous rules. Given the ensuing events, there are likely many ISPs who wish it had kept its powder dry.

Whether or not network-neutrality legislation could actually emerge from both the House Energy & Commerce and Senate Commerce Committee likely hinges on how much both Republicans and Democrats are willing to give.

At the House hearing, Democrats and witnesses favoring strong net-neutrality rules pointed to several problems in the bill, chief among them that it foreclosed Title II and also says the FCC can't use Section 706 (of the Telecom Act) as a grant of authority.

Democrats argue that is basically a gift to incumbent ISPs, could prevent the FCC from insuring rural broadband rollouts and could prevent the agency from pre-empting state laws limiting municipal broadband.

Republicans didn't back off from those asks at the hearing, but Rep. Greg Walden (ROre.) did signal he was willing to work with Democrats on the issue of specialized services.

The bill allows for such services, which Powell defended vigorously last week. ISPs charge for delivering services over the nonpublic Internet, something the FCC and even President Obama has said should be allowed. But Democrats argue that the definition is too vague and could become a back door to paid prioritization, something the bill would bar at the front door.

Walden said at the hearing that the committee was not trying to allow something then create a loophole, so he was willing to talk about resolving that issue in the bill language.

On the Senate side — and the House side, for that matter — Democrats were concerned that removing Section 706 as a grant of authority would mean the FCC could not support the migration of the Universal Service Fund to broadband or support municipal broadband.

BOOKER: DON'T TIE FCC HANDS

Sen. Cory Booker (D-N.J.) was adamant that the language tied the FCC's hands on municipal broadband, something he said was unconscionable given that cities were trying to provide low-cost service for residents, often intended for minority constituents. Booker, himself the former mayor of Newark, N.J., last week announced a bill that would block state laws limiting municipal broadband.

Senate Commerce Committee chairman John Thune (R-S.D.) said the bill presumes that the FCC has ancillary authority to continue to support the Universal Service Fund.

While some Democrats praised the principles behind the bill, that was mostly to be able to add that they were glad Republicans had finally come around to agreeing that the threat to the open Internet was real and that network neutrality rules were needed.

The Democratic support for legislation was only for legislation that would do what most Democrats want the FCC to do: ban blocking and discrimination, paid prioritization and specialized services if they are a stealth attempt at paid prioritization, while preserving the FCC's authority via Section 706 and Title II, the latter at least as a hammer with which to threaten ISPs into their best behavior.

Powell: There Ought to Be a Law

WASHINGTON — National Cable & Telecommunications Association president Michael Powell made a prolonged pitch for network-neutrality legislation to Congress last week. Here is an excerpt.

"In the absence of a clear Congressional directive, the FCC will continue its attempts to force the round peg of open Internet policy into the square hole of existing statutory frameworks.

"We have already wasted years on protracted court battles, repeatedly failing to come up with a sound legal foundation to support the FCC's authority to adopt open Internet regulations. And if as it increasingly appears will be the case, the FCC attempts to impose the outdated and heavy handed common carrier obligations of Title II on broadband Internet access services, it is guaranteed that we will waste several more years.

"There is nothing to be gained by prolonged uncertainty, especially when a simpler solution is before us. Even FCC chairman [Tom] Wheeler has

suggested that if Congress were to intervene legislatively, it would ‘make the whole lawsuit question moot.’”
- See more at: http://www.multichannel.com/kill-bill-democrats-diss-net-effort/387247#sthash.d5fwaX3F.dpuf

Multichannel News

Cable Sub Growth in 2015? Bulls Say Yes

Satellite Losses, Broadband Should Drive Growth: Analysts

1/26/2015 8:00 AM Eastern

By: Mike Farrell

TakeAway

Financial analysts are taking a bullish view toward cable subscriber growth this year, even as regulatory threats loom.

Despite relentless regulatory threats (see Rules), at least a few bulls believe 2015 will be the year that cable operators — particularly Comcast and Charter Communications — will cross the chasm into positive video growth, capitalizing on satellite's continued decline and its strong broadband offerings.

In a note to clients previewing his 2015 outlook on the sector, MoffettNathanson principal and senior analyst Craig Moffett said that after several quarters of flirting with positive video growth, both Comcast and Charter should cross into positive territory in 2015, with Comcast adding 70,000 video customers and Charter adding 67,000.

Moffett made a point to separate Comcast and Time Warner Cable, which are expected to complete their $67 billion merger early this year. TWC, which has faced some subscriber challenges over the past several years, will lose about 463,000 video customers in 2014, reducing that to a loss of 186,000 customers in 2015 (which would offset Comcast's 70,000 gain), Moffett estimated. TWC will add 18,000 video customers in 2016, according to the analyst.

SLUGGISH SATELLITE

That growth won't necessarily come from new household formation or the realization by millennials that Internet video is just a fad, but mainly from subscriber losses by satellite- TV providers DirecTV and Dish Network. After years of net new subscriber additions in the hundreds of thousands, Moffett predicted, DirecTV will dwindle to 14,000 additions in 2015, culminating in a loss of 151,000 customers by 2018. Dish, which added about 1,000 customers in 2013, is expected to lose about 92,000 customers in 2015 and 134,000 by 2018, according to Moffett's estimates.

He's not alone. Other analysts, such as Pivotal Research Group principal and senior media and telecommunications analyst Jeff Wlodarczak, also said satellite's growth days could be over.

The notion that cable operators could cross the positive subscriber threshold first surfaced in 2013, when Comcast reported its first quarterly video customer-growth in about six years, adding 43,000 video customers in the fourth quarter. That turned out to be just a fleeting glimpse — Comcast ended up losing about 267,000 video customers that year, but it was fewer than in years past and a sign of things to come.

Comcast again reported positive video customers in the first quarter of 2014 (24,000). Although Comcast reported video customer losses in the second quarter (144,000) and the third quarter (81,000), Moffett said he expects a fourth-quarter gain that will reduce full-year subscriber declines to just 9,000.

Charter entered positive video-customer territory in 2012, adding 22,000 customers in the first quarter — which it credited to more-effective packaging and more HD channels — and again in the first quarter of 2014 (18,000 video customers).

Video-subscriber growth has been the cable industry's Holy Grail for about a decade. The industry last showed a video-customer gain in 2001 when, according to the National Cable & Telecommunications Association, there were 66.9 million U.S. cable customers. As of last March, that number had fallen to 54 million, according to the NCTA.

Video-subscriber growth also comes at a time of high pressure on the video side of the business. Overall cable-video rates are rising between 3% and 5% per year to help partially offset double-digit increases for programming, retransmission consent and sports rights.

Over-the-top video competition also is heating up as Sling TV, Sony, Verizon Communications, HBO and CBS all have plans to offer lower-cost online video packages before the year is out.

OTT THREAT OVERBLOWN?

Moffett believes that Sling TV, Dish Network's OTT offering, will have some initial interest, but it costs too much for the non-sports enthusiast and lacks the programming true sports nuts crave — regional sports networks and broadcast TV stations. Though the Sony offering is a little hard to forecast, Moffett wrote that maybe investors and industry pundits that fear OTT services that merely aggregate existing cable programming are looking in the wrong place.

"Disruption isn't likely to come from within the existing ecosystem, in our view," Moffett wrote. "It is likely to come from outside. Millennials aren't waiting for a lower-priced package of the same content; they are abandoning the ecosystem altogether in favor of content produced on and for social media at a fraction of the production cost of traditional pay TV."

That said, Moffett estimated DirecTV and Dish Network would lose a collective 285,000 subscribers by 2018, more than enough to fuel cable increases.

Wlodarczak said he believes that cable has finally caught up with the satellite business after years of fierce competition, adding that even AT&T's proposed $48.5 billion acquisition of DirecTV won't be enough to stop the bleeding.

“The presence of AT&T at DirecTV (which we believe will end up driving slower growth in and of itself) is likely to offset improvements in the economy and [satellite] is unlikely to show annual video-subscriber growth ever again,” Wlodarczak wrote in a recent note to clients.

IT’S THE ECONOMY

Wlodarczak said he believes that although there has been a lot of noise on the OTT front, the data shows that the economy has been the biggest factor in pay TV losses, forcing more and more consumers to revert to free, over-the-air broadcast programming. According to Nielsen, broadcastonly households have increased by 1.2 million over that past four years, while new pay TV customers increased by 475,000 homes. With about a 2.65 million additional occupied households in the same period, Wlodarczak wrote that implies that about 1 million households elected to go without TV or to a digital alternative in the past four years.

“As for the argument that millennials are less interested in pay TV, pay TV penetration among 18-24 [year-olds] is actually higher today (90.5%) than it was 4 years ago (88.2%) [although pay TV viewership hours declined over the same period] according to Nielsen,” Wlodarczak wrote. “In our view, if household incomes continue to rise, household formation accelerates off historically low levels, and millennials keep moving out of the basement of their parents’ homes, pay TV results could improve materially.”
- See more at: http://www.multichannel.com/news/distribution/cable-sub-growth-2015-bulls-say-yes/387248#sthash.sO9PZGrZ.dpuf

Multichannel News

Wheeler’s ‘Moment’: A Call For Power to the People

Casts ISPs in Gatekeeper Role2/02/2015 8:00 AM Eastern

By: **John Eggerton**

WASHINGTON — Federal Communications Commission chairman Tom Wheeler made it clear last week, if it wasn’t already, that he feels broadband is at a “moment” that requires establishing it as the province of the people, not the “gatekeepers,” a term he has been increasingly applying to Internet-service providers.

He made his signal crystal clear in a press conference following an FCC meeting in which the agency’s Democratic majority voted to alter the definition of advanced telecommunications to a faster 25 Megabits per second — a change that alters the broadband map to depict that only about half the U.S. has a choice of high-speed Internet carriers.

Wheeler has cast ISPs — rather than, say, edge providers — in that gatekeeper role, contending that they are terminating monopolies that need regulators to rein them in for the sake of consumers, innovation and competition.

Wheeler’s moves — the effort to regulate broadband under utility-style Title II regulations, boosting broadband speeds, taking aim at usage caps, potentially pre-empting state broadband laws, likely including wireless in new rules and, perhaps, interconnection — are driven by a long view. And that’s unsettling to industry players.

The National Cable & Telecommunications Association, for example, said the new 25 Mbps benchmark is a way to justify more regulation of broadband, rather than an “accurate assessment” of the broadband marketplace. The MSO trade group is strongly opposed to Title II and pre-emption.

If Wheeler’s view of ISPs as gatekeepers — and President Obama’s call for regulations under Title II — have done anything, it’s undercut the notion that Wheeler, a former head lobbyist for the NCTA and CTIA-The Wireless Association, would play favorites with those industries, as well as the thought that some Comcast executives’ Obama-friendliness would translate into favors from Washington.

Wheeler refused to comment last week on whether the change to 25 Mbps would make it tougher for the planned Comcast-Time Warner Cable merger to get government approval, but the Nos. 1 and 2 U.S. cable operators’ share of high-speed subscribers just got a boost thanks to that redefinition. Wall Street analysts are still betting on approval of the merger, but the odds have gone down in recent weeks, partly arising from the unsettled regulatory outlook.

Wheeler called the FCC “the public’s representative in the broadband revolution” and said it would use every tool in the toolbox “to build a better broadband future” that is “fast, fair and open for all Americans.”

He said boosting the speed target was one step on that path, but that the FCC had come to a “fork in the road.” The question, he said, is, “Whose Internet is it?”

Wheeler signaled an answer in the form of another question: “How are we going to make sure that, in the broadband future, there are yardsticks in place to determine what is in the best interests of consumers, as opposed to what is in the best interests of gatekeepers?”
- See more at: http://www.multichannel.com/wheeler-s-moment-call-power-people/387481#sthash.WXCvA1yi.dpuf

Multichannel News

Does Comcast-TWC Delay Spell Doom?

Merger Partners Extend Pact to August as Vetting Drags On

2/02/2015 8:00 AM Eastern

By: John Eggerton

TakeAway

It's still likely Comcast and Time Warner Cable will consummate their mega-merger, but regulatory delays have lowered the odds.

WASHINGTON — Should investors fear anything about Comcast and Time Warner Cable's agreement to extend the end date of their merger agreement by six months, to Aug. 12?

The short answer is that the deal isn't imploding — but keep watching.

The companies had initially told the Securities & Exchange Commission they thought the deal — a $67 million stock-and-debt deal to combine the No. 1 and No. 2 U.S. cable operators — would be completed by the end of 2014 (actually by Feb. 12, 2015, a year from its announcement). As is standard, though, the agreement also anticipated that an extension might be necessary considering neither company controls the government-vetting timetable.

It's little wonder there have been innumerable delays, given the vetting process by the FCC and the Justice Department in Washington, as well as a court challenge to the agency's protective order on making program contracts public.

Were Comcast, the No. 1 U.S. cable operator with 22.4 million video customers as of third-quarter 2014, to prevail in acquiring Time Warner Cable, the No. 2 MSO with 10.8 million video subscribers, the resulting company would have about 29.3 million video households, following a series of system swaps, sales and spins that would put it below 30% of total U.S. MVPD households.

The FCC has an informal 180-day shot clock" on the deal; the vetting process is only at day 122. But that "clock" dates from when the merger papers were filed — which did not occur until April 2014 — and has been stopped twice due to document-production issues.

The initial end date was Feb. 12, a date that would have given either party an out if they did not want to continue the deal. Neither opted for that out.

The FCC is not expected to make a decision on the deal until late spring or early summer because of the protective order court challenge. The U.S. Court of Appeals for the D.C. Circuit is scheduled on Feb. 20 to hear oral arguments on a challenge to an FCC decision to allow some 200 third parties to review contracts and "work product" related to the Comcast-TWC merger, as well as telco AT&T's proposed acquisition of satellite-TV provider DirecTV.

According to an attorney involved, the court isn't expected to rule until April on the challenge brought by such programmers as CBS, Time Warner Inc., 21st Century Fox, Viacom and Univision Communications, who claimed the FCC's move was unprecedented and that the agency failed to consider less-intrusive ways to make the contract information available. The programmers successfully sought a stay of that decision in federal court.

If the ruling on the documents goes against the FCC, it could act on the merger soon afterwards. But if the court allows those third parties access — as the agency wants — it will need to open a window for viewing and comment. In that case, the attorney said, a decision on the merger could push into the summer.

Financial analysts still expect the deal to be approved, likely with conditions related to high-speed broadband and nondiscriminatory access to programming, though the odds of it passing muster have lowered a bit.

“We’re at 70%, down from 80% previously,” Craig Moffett, principal and lead analyst at MoffettNathanson, said.
- See more at: http://www.multichannel.com/news/distribution/does-comcast-twc-delay-spell-doom/387482#sthash.9RFHUbJt.dpuf

Multichannel News

Is Cable’s Hot Streak Close to an End?

SECTOR SHOWED RESILIENCE IN 2014, BUT REGULATORY THREAT COULD CHANGE THAT TREND

2/02/2015 8:00 AM Eastern

By: Mike Farrell

After an unprecedented two-year run (2011-2013) in which their values more than doubled, cable stocks have begun to lose their Teflon coating, rising about 10% in the past 12 months. While the stocks were never expected to keep up the blistering pace of the previous two years, adding pressure on shares is the growing specter of real regulation, the first for the industry in more than 20 years. Reclassification of broadband service, cable’s fastest-growing and most-profitable business line, under utility-style Title II common-carrier regulations is not just a threat any longer, it’s coming. The only question remaining is how onerous the new law of the land will be.

Unlike in previous years, when the mere hint of additional regulation sent shares into a prolonged tailspin, cable stocks took their respective hits earlier in 2014 but managed to rebound to their previous levels in a matter of days or weeks. There are signs that immunity may be wearing thin, though. The sector is down about 5% so far in January, indicating that investors may be taking the regulatory threat a little more seriously. That could change quickly, too.

That decline could either mean that the industry is in for a rude awakening as Title II pricing regulation strangles growth, or as most investors seem to think, a Republican Congress won’t pass laws that will kill cable’s golden broadband goose. Instead, they hope, Title II will remain an option, but with a lighter touch and heavy forbearance of the more controversial aspects of the rules.

Whatever the outcome, the stocks continue to move onward and possibly upward as the expected closing date for the merger of Comcast, the No. 1 U.S. cable provider, and Time Warner Cable, the No. 2 U.S. MSO, nears.

Depending on whether that $67 billion deal is approved (and there is a growing possibility it won't be) the conditions imposed by the Federal Communications Commission and Charter Communications' appetite for scale, the aftermath of that deal should be the consolidation wave that everyone had been waiting for, which should in turn boost the stocks. In addition, post-merger, the industry will lose one publicly traded stock from the distribution sector in Time Warner Cable, but it will gain two more — GreatLand Connections, the spinoff of about 2.5 million customers from Comcast- TWC, and Cable One, the small-market spinoff from Graham Holdings later this year.
- See more at: http://www.multichannel.com/cable-s-hot-streak-close-end/387491#sthash.NP2ldGvJ.dpuf

Multichannel News

Lost And Found

Behind The Effort For Better TV Navigation

2/02/2015 8:00 AM Eastern

By: Gary Arlen

TakeAway

Multichannel providers — and third-party vendors — are scrambling to develop tools to resolve a thorny dilemma: Helping viewers actually find what they want.

The TV industry's fixation with "TV Everywhere" is a wonderful thing, as it would give viewers the ability to find any show at any time on any screen. All of this programming ubiquity has a downside, though: How do you find a show you want to watch?

Media consumers have said their "No. 1 need" is for "a universal listing to find shows across all TV sources," including the vast array of over-the-top and online video content, according to "Conquering Content," a December, 2014 study of some 1,250 U.S. television viewers with broadband service by Boston-based Hub Entertainment Research.

Sixty-one percent of respondents cited a need for "a universal listing that lets them find shows across all TV resources," the Hub study said.

For the most part, though, the best cable operators can do is offer is a roster of programs available from conventional sources: linear networks, video-on-demand and shows saved to digital video recorders. Some still offer a frustratingly slow scroll of TV listings, while others merely provide an up-down and left-right grid as part of their DVR and VOD functions, with limited descriptions.

While such established players such as DVR manufacturer TiVo and over-the-top video provider Netflix have honed their suggestion-based services, a small group of companies — mostly third-party vendors such as Jinni and CanIStream.it — have stepped in with new image-based and keyword discovery systems. These systems are far more accurate and interactive than the text listings found in standard on-screen cable guides, and cover art and show clips are de rigueur.

NO ONE-STOP SHOPPING

Whether a viewer hankers to put together a personalized viewing session of Iggy Azalea, Taylor Swift and Nicki Minaj performances or a Doris Day film festival, it's frustrating to know that the titles are out there somewhere but not attainable. Where's a single, easy-to-use search tool to find them?

Cable operators have very little incentive to offer any such universal program-search capability. Aside from complexity that is often beyond the capability of today's standard set-top boxes, any such searches could drive viewers to OTT content that operators cannot monetize.

Neither cable operators nor over-the-top providers such as Netflix or Amazon have a compelling motivation to provide comprehensive listings of everything available everywhere in a user-friendly, searchable format.

MSOs contend that their VOD libraries offer anything viewers would want to see, while OTT providers only want to list the programs that are actually available from their libraries. As with many factors in the brave new digital world, those deliberate limitations may soon be breached in a manner beyond operators' control.

"The discovery process plays a big role in the success of TV content, both online and linear," Jon Giegengack, a principal at Hub and co-author "Conquering Content," said.

The idea of a universal source for cross-platform search has been viewers' "No. 1 interest" for several years, Giegengack said. Three-quarters of viewers who have broadband access watch some online video, he said, often from two or more online sources, such as Netflix, Vudu or Hulu.

Comcast, with its evolving cloud-based X1 platform, believes it has part of the cross-platform solution. Viewers, for example, can create a customized dashboard that unites multiplatform content “with improved redability and intuitive navigation,” according to Comcast. It is eyeing — but not yet implementing — truly universal program discovery and navigation.

“X1 makes it easier for our customers to access all the programming available to them as part of their subscription through integration of live, on-demand and saved programming and also through intuitive search and discovery,” Matt Strauss, senior vice president and general manager of video services at Comcast Cable, said. “It also opens the door to make new content, such as Web-based content and experiences, available directly on the TV.”

During the 2014 Sochi Winter Olympics, Comcast experimented with Web-video content, making NBCUniversal’s NBC Sports Live Extra app available via the X1 platform, according to Strauss. Comcast is “exploring the ways in which we might expand our collection of apps on X1 over time and continue to work with third parties on the integration of new content and experiences into the platform in a way that’s seamless, intuitive and complementary to the comprehensive X1 experience,” he said.

But as far as over-the-top revenue streams go? “It’s too early to discuss how we’d monetize Web-based programming on X1,” Strauss said.

Cox Communications is focused on the search capabilities in its Contour set-top boxes, which can seek programs across linear and on-demand lineups as well as DVRs, vice president of marketing for video Jonathan Freedland said.

“It’s not going out to Netflix or Hulu or anything; there’s not an access path for the consumer to get to it,” Freeldand said. “We’re serving content that we have the capability to deliver.”

Cox does have a Contour app and Contour-powered set-tops can serve default recommendations, but the Atlanta-based MSO is focusing on content from the channels it carries, Freedland said. Since Contour debuted in 2013, he said, there has been a 20% average viewing increase on about two dozen networks and a 40% increase in the average number of shows viewed monthly on those channels.

Freedland credited the Contour program guide for driving that viewership growth. Such increases suggest that viewers are finding programs they want to see within the limits of set-top search capabilities.

But like other MSOs, Cox is holding back on any universal search capabilities until “we determine a business case and consumer desire” for such expanded access, Freedland said.

Ultimately, content discovery is not enough. An ideal content-search system should be integrated with a navigation service. Several companies are focusing on the importance of “catch-up” features, which enable a viewer to go back to the start of a show (via VOD technology) even if they “discover” the real-time telecast minutes, hours or even several days after it ran.

The functionality of today’s set-top boxes is one of the biggest stumbling blocks to universal search and discovery.

BLAME IT ON SET-TOPS

“We’d like to deliver all [shows] ... but I don’t have an STB that can give them everything yet,” Bob Gessner, president of independent cable operator MCTV in Massillon, Ohio, and chairman of the American Cable Association, a small-operator trade group.

That universal search situation will eventually lead to a delivery dilemma, Gessner added.

“To the extent that content will migrate to (broadband), customers will have to buy more bandwidth,” he said. “If you follow that to the logical conclusion that they’ll want high-definition on multiple screens, they’ll need a lot [of bandwidth]. The 50 Mbps connection would not be sufficient.

“I don’t think it’s really that hard to assemble the metadata for a universal guide,” Gessner said, but you need “to have that infrastructure platform on which you can play it. The STBs [today] cannot do that.”

Viewers want a “wider breadth of content and pricing flexibility,” Patrick Knorr, executive vice president of IP and business services at Wave Broadband in Kirkland, Wash., said.

Wave uses TiVo’s platform, which can offer universal search to deliver the content consumers want via apps within the set-top, he said. “We think it’s the best solution in the marketplace today,” Knorr said.

There is “high demand,” but the TiVo service is “too new to give specific data about usage,” Knorr added.

INTERIM SOLUTIONS

Discriminating viewers are finding other means to look for shows they want to see. New smart TVs with program-guide apps fill some of this demand, either through preinstalled “native guides” or via downloads that access websites linked to the growing multitude of navigable contentsearch tools (see sidebar).

Such online directories are becoming increasingly competitive with cable operators’ limited on-screen program guides. They are especially appealing to curious and demanding millennial viewers.

Smart TV apps are proliferating. For example, at last month’s International CES, Samsung expanded its proprietary “Milk Video” platform with features that let viewers discover, collect and share Web videos. The Milk app curates premium Web video content from growing rosters of 50 sites.

Milk offers a click-and-watch seamless process that is a step beyond most on-screen grids and certainly more responsive than scrolling time listings.

Yosi Glick, co-founder/CEO of Israel-based Jinni, contends that today's on-demand environment has created "a very challenging process, because the responsibility lies with the viewer" to figure out how to search for titles.

But the antiquated tools in conventional navigation systems can't handle the current array of choices, Glick said, so viewers need to do a little work to find what they want to watch.

Jinni's guide, unlike a conventional navigation system, is intended to help viewers make such decisions, Glick said. Jinni's "Entertainment Genome" software offers viewing recommendations based on seven "tastes" that people identify when they register for the service. Using these preferences, Jinni can search for shows that are "bleak," "mind bending," "captivating," "clever," "tense," "offbeat" or "thought-provoking" to fit a viewer's current mood, according to Glick.

Whether they say it or not, viewers want the on-screen guide "to show me what's available for the mindset I'm in right now," Glick said.

Such personalized capabilities augur a new direction for program discovery and navigation. But for now, cable's business situation tempers the momentum for universal guides.

"There's not a lot of partnership [collaboration] going on," Billy Purser, senior director of marketing at TiVo-owned video search-technology company Digitalsmiths said. "You haven't seen anything ... because they [operators] haven't figured out how to monetize the OTT relationship. They're figuring out how to promote the current catalog."

Cable operators are just starting to implement crossplatform promotion solutions, Purser said, noting that Digitalsmiths is working with seven of the top 10 U.S. pay TV providers (Time Warner Cable, Dish Network, DirecTV, Charter, AT&T, Verizon Communuications and Bright House Networks).

The Digitalsmiths tool — distributed via parent TiVo, which acquired the tech firm last year — allows cable operators to promote content in all formats “to the right audience,” co-founder and CEO Ben Weinberger said.

“They can find anything they want on a single platform,” Weinberger said. “Operators can apply business rules based on the goals they want.”

The uptake among MSOs is still sparse, though, he acknowledged.

Longtime guide developer Rovi’s November acquisition of Fanhattan is also seen as a potential programsearch game-changer. Through its cloud-based Fan TV device and services, Fanhattan has created popular multiplatform program discovery products for linear TV, VOD and OTT content.

Fanhattan’s one-touch wireless device, Fan TV, can plug into a cable settop and the integrate content from linear cable, VOD and OTT into a single interface. Time Warner Cable has been offering Fan TV for a one-time $99 fee on a limited basis since last year.

In 2013, Cox trialed Fanhattan’s technology with a broadband-subscription TV project in Orange County, Calif., branded as flareWatch. Cox ended that trial in September of 2013, at the time saying only that results from the tests could factor into future product offerings.

Fanhattan was originally set up as a video-discovery app for cross-platform searches for movies and TV shows. Creating Fan TV was an attempt to get into more homes, and the company’s founders acknowledge that the sale to Rovi was intended to accelerate cable relationships.

Rovi expects Fan TV to “augment our next-generation guidance and discovery solutions,” Omar Javaid, senior vice president and general manager of Rovi’s Discovery Group, said. Fanhattan’s technologies will be incorporated into a “scalable and modular cloud-based platform supporting IP and hybrid STBs, DVR functionality and personalized interactive user-interfaces,” he added.

A comprehensive cross-platform guide threatens to be “unwieldy and overcomplicated,” Peter Fondulas, Hub’s co-founder and co-author of the “Conquering Content” report, said. “A major consideration should be what the user experience will look like” and how the guide “allows individuals to search according to their preferences,” he said.

Interface decisions must be the result of “negotiations between the OTT provider and the cable operator,” Fondulas added, noting that cable “has newer content” but it is often “more expensive and clunky to find.”

Moreover, the infrastructure for a true, full umbrella video discovery system is haphazard. That’s because neither cable systems nor OTT video providers want to direct viewers away from the content they sell.

DEMAND DRIVES CHANGES

Greg Gudorf, a former Sony and Digeo senior executive, said he expects the momentum for integrated universal search will grow. He was formerly chief operating officer of Technicolor’s MediaNavi MGO technology unit, which focused on integrated digital content delivery.

“Consumers are demanding it more,” Gudorf, now a San Diego-area media technology consultant, said, adding that he believes cable’s TV Everywhere initiatives “are going to evolve to embrace OTT.”

The barriers to truly universal program discovery and navigation — “growing complexity” and the “need for business relationships” between cable and online content providers — will persist for a while, cautioned Gerald Kunkel, a media strategy adviser with Nautics.tv. (Kunkel led Comcast’s “GuideWorks” joint venture with Gemstar-TV Guide International, now Rovi, which was eventually folded into X1; and more recently worked on Microsoft’s “OneGuide” project.)

As Hub Entertainment Research’s Giegengack said, “Almost-unlimited catalogs mean that viewers need, and increasingly expect, tools to make discovering shows they’ll love a manageable task.”

Finding Video Sherpas Online

A throng of companies have popped up offering almost universal onscreen and online (including mobile) program search. Below is a list of a few such Web-based offerings, some of which offer curated video capability. For links to the websites, visit **multichannel.com/Feb2**.

Jinni: Steers viewers to programs on HBO, Showtime, NBC, CBS, Netflix, Vudu, Amazon and other video sources. The company has been developing its "taste-based" audience recommendation system for seven years.

Rovi: Program-guide maker has expanded capabilities through its November 2014 acquisition of Fanhattan, maker of the Fan TV device and cloud-based software for cross-platform video search.

WhereToWatch.com: These searchable program listings from the Motion Picture Association of America debuted in November.
CanIStream.It: Provides links to videos available via Netflix, Hulu, Xbox 360, Sony Entertainment Network, Google Play, YouTube, Comcast's Xfinity and many other sources.
GoWatchIt.com: Concentrates on films and documentaries, many of them organized by their appearances at recent film festivals.
Watcheroo: A tune-in guide categorized alphabetically by platform or network.
Frequency Networks: Focuses on "turning the Internet into TV" by gathering videos from CNN, the National Geographic Society, TMZ, Fashion TV, the Associated Press, TechCrunch, Laugh Factory and *The New York Times*, among others.
Waywire: Curated service that provides tools to enable viewers to develop their own guides to pertinent programming for special interests.
- See more at: http://www.multichannel.com/news/content/lost-and-found/387492#sthash.mfC1WnHY.dpuf

Multichannel News

State Officials Push Back Hard on Pre-emption

Say Their Laws Will Not Go Down Without a Fight 2/02/2015 8:00 AM Eastern

By: John Eggerton

TakeAway

State officials are forming a united front against an FCC and White House move to preempt state statutes designed to rein in municipal broadband systems.

WASHINGTON — Cable operators have found some strong allies in their fight against federal pre-emption of state laws circumscribing municipal broadband buildouts.

Groups representing state legislatures — including some state legislators themselves — joined with state regulatory commissioners and governors last week to highlight the threat of Federal Communications Commission preemption of laws that put various requirements or limits on city-funded networks.

That pre-emption threat has come from both the FCC and the White House, which at times appear to be coordinated in their broadband initiatives.

FCC chairman Tom Wheeler has said that loosening “legal restrictions on the ability of cities and towns to offer broadband services to consumers in their communities” could boost competition, competition, competition — his mantra. President Obama, in a strongly worded speech before the State of the Union address, said essentially the same thing.

Wheeler has signaled he plans to vote Feb. 26 on petitions from two municipalities — Chattanooga, Tenn., and Wilson, N.C. — seeking federal pre-emption of state laws that would block localities from building out broadband networks or limit the types of services those networks could offer. He is widely believed to have the votes to grant those petitions, which would almost certainly trigger a court fight.

An FCC spokesperson confirmed the Feb. 26 vote is still on.

Wheeler and Obama have said they see the state laws primarily as efforts by incumbent Internet-service providers to prevent price and service competition.

UNITED FRONT

Groups representing state government — such as the National Council of State Legislators, the National Governors Association and the Council of State Governments — held a conference call last week to speak with one voice against pre-emption. They spoke of the need to protect the sovereignty of state laws over municipalities, and told the FCC in no uncertain terms of their collective will to oppose any such moves.

The National Council of State Legislators has told Wheeler that it was unhappy with his comments to the National Cable & Telecommunications Association and others that pre-emption might be necessary, Neal Osten, executive director of the group's Washington, D.C., office, said.

The Supreme Court has signaled that there is a presumption against pre-emption, Osten added.

Osten suggested that Obama, himself a former Illinois state senator, should understand that "states are ultimately responsible for the fiscal wellbeing of [their] subdivisions."

Legislators from South Carolina and Utah said the laws were meant to provide consistency of oversight and to ensure taxpayers aren't on the hook for municipal broadband systems that have failed, sometimes to the tune of many millions of dollars.

South Carolina's state broadband law says that government networks can't receive a benefit not provided to nongovernment networks, can't be cross-subsidized and must be audited. State Sen. Thomas Alexander, a Republican lawmaker from South Carolina, said he thought his state's law should be a roadmap for success rather get being undone through preemption.

SAFEGUARDS IN DANGER

Utah requires municipalities to service the debt on their bonds as they go and to put requests for more money up for taxpayer vote, said Utah State Sen. Curt Bramble, a Republican. It also prevents municipal providers from offering content. "They can build it, but they can't be the content provider, "which is "provided adequately by the private sector," Bramble said.

House Republican leaders Fred Upton (R-Mich.) and Greg Walden (R-Ore.) who also oppose pre-emption, have said that "the history of municipal Internet access is littered with many costly failures that no one wants to repeat."

State Rep. Joe Atkins of Minnesota, a Democrat, said he had a question for Wheeler if he goes down the preemption path: "Is the FCC going to foot the bill when there are failures?"

Atkins said Monticello, a Minnesota city of 12,000 located northwest of Minneapolis, is being sued by bondholders because its city-owned broadband effort "has gone belly up in a huge way."

The groups signaled that if the FCC goes ahead with pre-emption, it can expect a tough court fight. They expressed confidenince that court precedent was in their favor.

Could FCC action to counter state broadband laws further the deployment of competitive high-speed broadband? The groups argued that was anything but certain, and that the story of municipal broadband included costly failures that laws in 19 states were meant to prevent through safeguards like requiring hearings, referendums and preventing cross-subsidization.

David Parkhust, general counsel of the National Governors Association, said federal pre-emption should be the exception, not the rule. He also said it appeared to cut against the president's directive to agency heads in 2009 that pre-emption should only be undertaken with sufficient legal authority, with consideration for states's legitimate prerogatives.

COULD STOP DEPLOYMENTS

Minnesota's Atkins said that pre-emption could also work against the president's goal of promoting broadband. He said that he thought it was "terrifically unfortunate" that the pre-emption issue would wind up in a legal tussle, in part because it would siphon off millions of federal, state or local tax dollars in legal fees. He said that in Minnesota, he was afraid that if the FCC "starts invading this space," it could have a chilling effect on the willingness of municipalities and states to partner in broadband.
- See more at: http://www.multichannel.com/state-officials-push-back-hard-pre-emption/387493#sthash.1eoVLApn.dpuf

Multichannel News

How Cable Neglects Its 'Red-Headed Step-Sister'

Making the Case for PEG Channels 2/02/2015 9:15 AM

Author: Bunnie Riedel

For 17 years, I've worked in an obscure media public policy world that only a telecom geek could possibly appreciate. That world is Public, Educational and Government (PEG) access television, or as I say, "the red-headed step sister of television." For the entirety of those 17 years, I have watched as members of the cable industry have tried everything they can to destroy PEG access television, to literally wipe it off the face of the earth, all the while claiming with bravado they mean no such thing and they mean no harm.

On many occasions I've been asked by policy makers, "Why do they want to do that?" To which I answer, "I guess they just don't like us," which sounds rather sophomoric all the way around, and it would be a petty complaint if we didn't have tons of proof from emails, public testimony, behavior, and the spoken and written word.

The most recent manifestation of cable's disdain for the public's media came from the National Cable & Telecommunications Association (NCTA) during a solicitation by the House Subcommittee on Communications and Technology for input regarding an upcoming White Paper on media. The subcommittee members were looking for guidance from stakeholders to inform them as they set about rewriting the Telecommunications Act.

The organization for which I work, American Community Television (ACT), provided feedback as to why we believe the regulatory framework that created PEG access television is still very relevant today. Those regulations address the fact that cable uses public rights-of-way to deliver their products and enjoy their profits. In other words, to make its money cable uses property that every taxpayer pays for. As "rent," cable pays local communities franchise fees, provides PEG access channels and provides support for those channels.

That regulatory structure, which historically was invented by the cable industry, has allowed PEG access television to flourish nationwide, creating about 5,000 local community channels and approximately 2,500 PEG access television operations. These channels have created a democratic space second to none in television, with cameras in city council chambers, school board rooms, houses of worship, service clubs and nonprofits, as well as the individual spaces characterized by two chairs and a potted plant.

PEG access is the "people's television" and it disregards the editorial control of its commercially driven brethren to give a platform and a voice to everyone equally. PEG is no small thing; it is a miraculous testament to freedom of speech and government transparency, which so many say they hold dear.

According to *Communications Daily*, the NCTA is "pressing" Congress (presumably through the White Paper response) to relieve its members of PEG obligations. The NCTA points to DBS and bemoans that providers in that space don't have PEG obligations. As arguments go, the NCTA should acknowledge that one is getting pretty long in the tooth; I've been hearing it for the 17 years I've been involved in this fight.

Hey, NCTA, if you can find one instance of DBS digging up our streets and sidewalks and occupying space in the public right-of-way, we'd love to see it.

I guess they just don't like us.

Before the holidays, there were two instances that prove my theory to be true. One was an email from a Time Warner Cable government relations employee to a City Councilman in a Western state. The employee told the councilman not to support legislation that ACT has been working on for five years, The Community Access Preservation Act (CAP Act), which would preserve and protect PEG access television. In the email, the TWC employee said PEG support drives up prices, and satellite doesn't have to provide PEG support, therefore PEG stifles innovation, growth and competition.

Never mind that that's a bald faced lie, it was yet another assault by the cable industry on democracy, free speech and government transparency. Our charge to the cable industry is, stop lying and come up with hard, cold evidence that PEG causes any of the harms you claim it does. (You won't, because you can't.)

Another instance of cable just not liking us happened in Northbridge, Mass., where Charter slammed the PEG channels from their positions on 11, 12 and 13 to 191, 192 and 194, in direct violation of the franchise agreement Charter has with the city. The Charter government relations employee told the Northbridge city council that it had had no choice; the MSO had to do it in light of its digital transition, and nobody watches the lower channels anyway. What the Charter employee didn't tell the city council was that it was moving Home Shopping, Telemundo and the NFL Network into channels 11, 12 and 13.

Yet another assault in a list of assaults so long and varied I could not possibly list them here. An assault on democracy, free speech and government transparency, by the industry that brings you Snookie, Honey Boo-Boo and *Sex Sent Me to the ER* as well as networks Russia Today, China Central Television and Al Jazeera America.

So, yes, cable really does want to wipe out community media and PEG access television.

I guess they just don't like us.

Bunnie Riedel is executive director of American Community Television, based in Columbia, Md.

- See more at: http://www.multichannel.com/blog/mcn-guest-blog/how-cable-neglects-its-red-headed-step-sister/387520#sthash.57CoJvIe.dpuf

Multichannel News

Pai: The Buck Stops With Obama

FCC Republican Sticking to title II as ‘the President’s plan’

2/09/2015 8:00 AM Eastern

By: John Eggerton

WASHINGTON — Federal Communications Commission member Ajit Pai has called FCC chairman Tom Wheeler’s Title II proposal an unlawful power grab, but he isn’t calling it Wheeler’s proposal at all.

Pai, a Republican, continues to ascribe the proposal for Title II-based Internet rules circulated last week (see cover story) to President Obama, and he scheduled a press conference for this week to make that point even clearer.

President Obama came out strongly for Title II reclassification of Internet access last fall, which the plan proposes. Wheeler has always said Title II utility-style, common-carrier rules were on the table, though he initially proposed a different path to restoring network-neutrality rules. A top Wheeler aide last week said Title II was being considered as at least part of a solution for the past four or five months, but House Republicans are launching an investigation into the relationship between the White House and FCC.

“I am disappointed that the plan will not be released publicly,” Pai, who had previously criticized Title II reclassification, said last Friday (Feb. 6) in a public statement. He then outlined what he said were the key takeaways:

“First, President Obama’s plan marks a monumental shift toward government control of the Internet. It gives the FCC the power to micromanage virtually every aspect of how the Internet works. ...

“Second, President Obama’s plan to regulate the Internet will increase consumers’ monthly broadband bills. The plan explicitly opens the door to billions of dollars in new taxes on broadband.

“Third, President Obama’s plan to regulate the Internet will mean slower broadband for American consumers. The plan contains a host of new regulations that will reduce investment in broadband networks.

“Fourth, President Obama’s plan to regulate the Internet will hurt competition and innovation and move us toward a broadband monopoly.

“Fifth, President Obama’s plan to regulate the Internet is an unlawful power grab. Courts have twice thrown out the FCC’s attempts at Internet regulation.

“Sixth, the American people are being misled about what is in President Obama’s plan to regulate the Internet.”
- See more at: http://www.multichannel.com/pai-buck-stops-obama/387748#sthash.LVUoquYg.dpuf

Multichannel News

Survey: You’re Missing Out Without Cable

Even cord-cutters find some value in pay TV service 2/09/2015 8:00 AM Eastern

By: R. Thomas Umstead

Television-industry prognosticators have been all too comfortable recently predicting the inevitable end of the traditional TV industry as it faces the onslaught of new digital-on-demand technology.

But consumers who have cable subscriptions and also stream content via over-the-top services like Netflix still overwhelmingly believe having a cable or other pay TV subscription with access to broadcast networks is valuable to their overall viewing experience, according to a recent survey of 2,000 multiplatform viewers by Horowitz Research.

As seen in the charts at right, OTT-only users believe not having pay TV services leaves them with some distinct disadvantages.

Netflix, Hulu and Amazon are credible, if not formidable, competitors to the traditional multichannel cable package. But the traditional TV industry can take a lesson from the recently completed Super Bowl: Just because the outcome might look bleak, the game ain’t over until it’s over.
- See more at: http://www.multichannel.com/survey-you-re-missing-out-without-cable/387747#sthash.pTRziNOb.dpuf

Multichannel News

Title II Rules Leave Wall Street Unfazed

Bullish Investors Convinced Rate Threats Won't Hurt 2/09/2015 8:00 AM Eastern

By: John Eggerton and Mike Farrell

Federal Communications Commission chairman Tom Wheeler, a fan of history, last week fired the shot heard 'round the communications world, proposing to regulate the Internet like a utility — he disputes the characterization — and drawing howls of protest from providers and high praise from public-interest groups.

The chairman, urged to act by President Obama, last Thursday (Feb. 5) circulated a draft order of tough new network-neutrality rules based on reclassifying Internet- service providers under regulations known in local parlance as Title II, as in the common-carrier rules detailed in Title II of the Communications Act of 1934. Both Wheeler and Obama have said they want to codify rules that would block ISPs' ability and incentive to throttle Internet traffic or otherwise threaten access to the broadband networks owned and operated by cable operators and others.

Never mind that formal complaints about discrimination and blocking have been notable for their absence. Internet-service providers have said they aren't blocking or throttling traffic, and have even agreed to rules based on Section 706 of the Telecommunications Act of 1996 to prevent such actions. Section 706 gives the FCC broad authority to "promote competition in the local telecommunications market" and "remove barriers to infrastructure investment."

Cable-sector investors, who have the most to lose from the decision, were decidedly unfazed, and seemed to take a cue from Alfred E. Neuman of *Mad* magazine: "What, me worry?"

Cable stocks, which were down about 10% in the month of January as the Title II threat gained steam, actually rose after Wheeler announced his regulatory intentions in a blog posted last Wednesday (Feb. 4) on the website of *Wired*, widely read among the Silicon Valley community. As a whole, the sector was up about 3%, with Charter Communications gaining 2.6%, Comcast 2.7% and Time Warner Cable about 2% each. Cablevision Systems was up 1.3%.

Wall Street's reaction, however muted, was expected, mainly because Wheeler has telegraphed his Title II intentions for weeks — and because his announcement brings some certainty.

"The question was how assertive/clear the forbearance against rate regulation and fees was going to be," Telsey Advisory Group media analyst Tom Eagan said, adding that in Wheeler's *Wired* op-ed piece, the chairman was specific about excluding wireline telephony-style rate regulation, unbundling and universal-service fee requirements from the new regime.

"Those exclusions are an incremental positive," Eagan added.

Pivotal Research Group principal and senior media & communications analyst Jeff Wlodarczak added that the gains could be the result of other investors who'd been waiting on the sidelines, deciding to jump in after Title II became more certain.

"There was a lot of capital sitting on the sidelines that wanted to be invested in cable given there was significant worry that the head of the FCC would pull a negative surprise out of his hat around price regulation or forcing open plant," Wlodarczak said. "[Wheeler] came out pretty forcefully against that. In the end there was an expectation that it could be a lot worse than it actually was, so people piled in."

Moreover, many believe that a true reckoning over price regulation may never come; Wlodarczak and others expect a flood of litigation from opponents to Title II once the regulations kick in, with telcos Verizon Communications and AT&T first in line, based on their stated intentions.

Still, some believe cable operators and investors may be whistling past the graveyard. Wheeler has told the communications world he wants, in effect, a written guarantee that there will never be competitive discrimination, by passing the toughest such rules the FCC — or even the president — has ever proposed.

MoffettNathanson principal and senior analyst Craig Moffett emphasized last week that Title II is by its nature a regulatory pricing regime.

In an interview, Moffett said the stocks' reaction after Wheeler dropped the Title II bombshell "makes no sense. Short of simply arguing that the certainty of bad news is better than uncertainty, there is no plausible reason for why the stocks should be up."

Although Wheeler has said he will not pull the price regulation trigger while he is in control, Title II could be a ticking time bomb just waiting to explode.

Randolph May, president of Rockville, Md.-based think tank the Free State Foundation, said he thinks the Title II order will eventually be all about the money. "I predict that either immediately, or in the not-too-distant future, the agency will regulate broadband usage tiers, ban or require modifications to so-called zero-rating plans, and control prices for interconnecting Internet facilities," May said.

Compounding the uncertainty is that most people misunderstand what Title II really means, according to Moffett.

"There is no ambiguity about what Title II really is — Title II is about pricing regulation, full-stop," Moffett said. "You can forbear the subsections about price regulation, but when you import an act that is fundamentally about price regulation, it would be naïve to think that price regulation isn't going to seep in around the edges."

FUTURE CONSIDERATIONS

That is especially true as political administrations and affiliations change. Having such a powerful tool at the ready could be extremely handy if the FCC decides to “unforbear” from unbundling or price regulations.

Understandably, cable operators are against the proposal and have begun circling the wagons to determine just how they will address the new regulatory regime. Charter Communications CEO Tom Rutledge, a veteran of past industry regulatory battles, recently said that Title II could be business as usual, basically enforcing what cable operators are already doing. But he, too, said he fears what the future could hold under what he called an “excessive approach.”

“While it doesn’t change the status quo in any way, somebody has a bazooka aimed at you, and that’s an uncomfortable situation,” Rutledge said.

One official called it a double-barreled source of authority that employs every tool in the toolbox, or more apropos, every gun in the arsenal. Title II also turned out to be personal for Wheeler.

This Time, It’s Personal

“I personally learned the importance of open networks the hard way,” he wrote in *Wired*. “In the mid-1980s I was president of a startup, NABU: The Home Computer Network. My company was using new technology to deliver high-speed data to home computers over cable television lines. Across town, Steve Case was starting what became AOL.

“NABU was delivering service at the then-blazing speed of 1.5 megabits per second — hundreds of times faster than Case’s company. ‘We used to worry about you a lot,’ Case told me years later.

“But NABU went broke while AOL became very successful,” Wheeler continued. “Why that is highlights the fundamental problem with allowing networks to act as gatekeepers.

“While delivering better service, NABU had to depend on cable-television operators granting access to their systems. Steve Case was not only a brilliant entrepreneur, but he also had access to an unlimited number of customers nationwide who only had to attach a modem to their phone line to receive his service. The phone network was open whereas the cable networks were closed. End of story.”

The chairman is proposing to reclassify Internet access as a Title II service to buttress three bright-line, enforceable rules against blocking, throttling (degrading) of content and a ban on paid prioritization, the so-called Internet fast lanes that had net-neutrality opponents staging protests at Wheeler’s home and staging mock fights between people in cat, and “fat cat,” suits outside FCC headquarters.

The rules will, for the first time, be applied to mobile Internet service, as well as fixed broadband.

And in a nod to the ongoing complaints of Netflix about peering, the FCC for the first time will provide for a complaint process for consumers and businesses that believe interconnection practices, including pricing, harm competition, and give the Enforcement Bureau the power to investigate and take action.

That is a way to address the issue without turning it nuclear. Although ISPs could not file complaints against edge providers, who are not covered under the new rules, if a company such as Netflix complained, a Comcast or Time Warner Cable could offer up evidence for arguments that Netflix engineered congestion to further its political objectives.

The draft includes a catch-all general conduct rule that allows the FCC to “stop new and novel threats to the Internet.” Wheeler did not elaborate, but a senior FCC official suggested that would be a way to get at specialized services — which are still allowed — if they are functional equivalents of Internet access or attempts to evade the rules.

That will also be a way to prevent “anticompetitive” discrimination but allow it for things like prioritizing remote health monitoring over video game playing. That could also include preventing ISPs from exempting their own content from data caps, one official said.

The draft also “enhances” the FCC’s network management transparency requirement, in ways that include more specifics on how to measure quality of service and making clear that reasonable network management applies to technical, not business, needs.

FOREBEARING IS NOT SCARING

The FCC will forbear, i.e., not apply, most of the Title II regulations — officials last week called it Title II tailored for the 21st century — and Wheeler insisted last week that the rules do not impose utility-style regulation on ISPs. For example, he said, there will be no rate regulation, new tariffs or unbundling of last-mile connections — that doesn’t apply to future FCCs or their chairmen, of course.

Nor does it trigger an obligation to pay into the Universal Service Fund, though the FCC has a separate proceeding on whether to make ISPs pay into the fund, which could eventually result in a USF hit for cable operators.

The rules apply to ISPs, not to other parts of the net, notably edge providers and companies that haul bulk traffic to ISPs before the final mile to consumers. The rules, Wheeler said, don’t create “burdensome administrative filing requirements or accounting standards.”

Wheeler chose *Wired*, the Silicon Valley bible, to announce what many were expecting; “I am proposing that the FCC use its Title II authority to implement and enforce open Internet protections,” he said in an online op-ed that appeared about the same time House Communications Subcommittee chairman Greg Walden (R-Ore.) was criticizing him for a planned takeover of the Internet.

But legislators were doing more than taking sides on the issue, though they were doing that, too.

Republicans in both the House and Senate were still working on a draft bill that would block the imposition of Title II while giving the FCC express authority — in a new section of the Communications Act some have labeled Title X — to prevent blocking and degrading and paid priority, essentially everything Wheeler and the president said they wanted.

No Democrats have signed onto the bill, but a few last week said they were still willing to work on a bipartisan bill.

ISPs had already been bracing for the blow. National Cable & Telecommunciations Association president Michael Powell — who, as FCC chairman during President George W. Bush's first term, backed defining Internet access as an information service, rather than a Title IIcovered telecom service — called the new rules a "heavy burden of Title II public-utility regulation on the Internet that goes far beyond the worthy goal of establishing important net-neutrality protections," protections Powell said he supports. He was concerned that, despite the chairman's protestations to the contrary, the new rules would "confer sweeping discretion to regulate rates and set the economic terms and conditions of business relationships," and called Title II an "Internet Iron Curtain."

Meredith Attwell Baker, a former FCC Republican and now president of CTIA–The Wireless Association, said the new rules threatened the future of mobile broadband. She has vowed to sue if the Title II order is approved and applied to mobile providers.

Title II activists were seeing it as payoff for years of work, including driving millions of comments to the FCC. "This is a banner day, as years of grassroots organizing is paying historic public interest dividends," Michael Copps, a former FCC Democrat and onetime acting chairman, said.

“Chairman Wheeler’s announcement is the culmination of a decade of dedicated grassroots organizing and advocacy,” Free Press policy director Matt Wood said, echoing Copps’s sentiment.

Congressional Democrats who have been pushing Title II, including Sens. Al Franken (D-Minn.) and Ed Markey (D-Mass.), were also doing victory laps. “Today is an historic day — historic for consumers, innovators, entrepreneurs, for anyone who counts on the Internet to connect to the world,” Markey said last week. “These rules are a Declaration of Independence for the Internet.”

The End is Near

Wheeler has set a Feb. 26 vote on the order, which was only a draft that circulated to the other members the customary three weeks before a vote.

An FCC official said the commissioners’ offices all received the item at the same time. The commissioners will have a chance to suggest edits, and cable operators and ISPs will be hoping for some changes. For example, the American Cable Association, which represents smaller, independent MSOs, didn’t get the carve-out from the rules for its members that it asked for, so it will be hoping to move the needle on that issue.

After the Feb. 26 vote, the order must be published in the *Federal Register*, which will likely take at least a few weeks and possibly months. Once published, there will likely be petitions to reconsider, then lawsuits.
- See more at: http://www.multichannel.com/title-ii-rules-leave-wall-street-unfazed/387749#sthash.R81WMtsh.dpuf

Multichannel News

Comcast Ghostwrites Letters From Elected Officials to FCC

Tue, February 10, 2015 | Posted by lgonzalez

It is common knowledge that Comcast and a number of political leaders enjoy special relationships. Nevertheless, it was still a bit shocking to see the level at which Comcast's army has infiltrated the political process as uncovered in a recent Verge article.

Comcast, Time Warner Cable, AT&T, and CenturyLink lawyers and lobbyists often write legislation for lawmakers to introduce. This past summer, the puppetry went one step further when Comcast crafted letters supporting the Comcast/Time Warner Cable merger. Those letters were then submitted to the FCC from the offices of a number of politicians known to receive support from the cable giant. We applaud both Comcast and their pet lawmakers for their efficiency!

The Verge was also able to obtain email threads that document how lobbyists drafted letters of support and sent them on to local elected officials, who then made insignificant changes in the signature line or transferred the exact language on to official stationery before sending it on to the FCC.

... Surprised? We Aren't - More Here ...

Minnesota Border to Border Broadband Awards Announced

Wed, February 11, 2015 | Posted by lgonzalez

The Minnesota Office of Broadband Development recently announced the recipients of the Border to Border Broadband grants, funding established by the state legislature in 2014 to facilitate rural broadband projects. Seventeen public and private entities will share a total of $19.4 million in Greater Minnesota.

According the the Department of Employment and Economic Development (DEED) press release, the projects will help bring better connectivity to 6,095 households, 83 community institutions, and 150 businesses in areas of the state considered unserved or underserved. This funding pays for up to 50 percent of the cost of each project.

The need in rural areas of the state is intense; 40 projects submitted applications for a total of $44.2 million in requests. Among the recipients are some familiar projects.

... Read our Full Coverage Here ...

CenturyLink's cable guys make plug to enter Minneapolis market
Erin Golden, Star Tribune

CenturyLink made a hard push for entry into the Minneapolis cable market Monday, telling members of the City Council that it is ready and willing to compete with Comcast — even if its cable offerings won't be available to all residents right away.

In a hearing with the council's Ways and Means committee, CenturyLink representatives said their company intends to roll out its Prism TV service over several years, as it has done in Phoenix, Denver and Omaha. While Minnesota state law requires cable franchise holders to provide service to all residents in the franchise territory, CenturyLink maintains that more recent changes to federal communications laws trump state regulations.

Comcast — and a handful of residents who spoke at Monday's hearing or submitted letters — argue that CenturyLink's plan would allow it to unfairly skirt the rules and leave many parts of the city without multiple cable options. The council is now deliberating over both arguments and will later weigh in on whether CenturyLink should be offered a new franchise.

Comcast is the Twin Cities' largest cable provider and the sole holder of a franchise in Minneapolis. The company's current agreement expires in 2021 but is not exclusive, leaving room for other providers to elbow into a changing market. CenturyLink is now looking to move into cities across the metro area.

CenturyLink officials told the council that although there is some competition from companies providing dish or subscription-based television services, the city hasn't had multiple cable franchise options for more than three decades.

"You don't have anybody else knocking on your door, and you probably won't," said Jim Campbell, CenturyLink's regional vice president for regulatory and legislative affairs. "And I think it's the residents of Minnesota that will win at the end of the day."

If the council approved a new deal, CenturyLink says, it would first roll out its cable service to 30 percent of the city's households. Future expansions would depend on the success of the Prism TV service, which is distributed through a fiber-optic network. Subscribers can watch live programming on smartphones and tablets, in addition to their televisions.

Prism TV is currently available in 14 U.S. cable markets, accounting for about 2.3 million homes. About 300,000 people have subscribed.

CenturyLink has declined to publicly share its plans for where the service would first be offered. That drew questions from Council

Member Elizabeth Glidden, who said knowing the company's plans was an important part of the council's considerations.

Campbell told Glidden that CenturyLink does have maps and would share them individually with council members but didn't want to release information that could get out to competitors. He said the company has expanded its service more quickly than promised in other cities.

"That's where I feel like we're in a bit of a conundrum here," Glidden said, adding, "I'll say that's a concern, that [the map] information isn't submitted."

The council has received letters opposing CenturyLink's proposal, including one from 23 Somali-American residents who argue that the company's limited rollout would hurt city leaders' racial equity goals. A second, nearly identical letter from another man identifying himself as a Somali community leader, Mahamoud Wardere, made the same argument.

Pete Rhodes, who runs a media company called Black Music America, said he's also concerned about who will be able to get CenturyLink's services.

"Unfair and inequitable service distribution impacts already under-served communities," he said.

A representative for Comcast spoke briefly during Monday's meeting, pointing council members to a letter the company sent to the city Monday.

In it, the company says it welcomes the competition from CenturyLink but disputes its legal arguments.

"Of particular concern is CenturyLink's build-out commitment that appears to stand in direct conflict with state law," wrote Emmett Coleman, Comcast's vice president of government affairs. "While CenturyLink says its service will be 'available' to over 30 percent of households within the City, it gives no indication of where within the City it will offer cable service. Which households or communities within the City will CenturyLink choose to serve?"

Erin Golden • 612-673-4790

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Net Neutrality: Confusion Reigns

Only 33% Believe Regulating The Internet Would Be Helpful

2/24/2015 3:15 PM Eastern

By: Mark Robichaux

A national survey released last week revealed that most Americans don't have a clue what "net neutrality" means.

If true (and it is, even among TV executives) that doesn't bode well for smooth assimilation into the regulatory construct of new FCC rules governing the Internet.

The phone survey by Hart Research Associates, with 800 adults 18 and over, echoes what I've gleaned talking to TV executives: Nearly three out of four (74%) Americans are unfamiliar with the term "net neutrality" and what it actually means.

In its simplest form, "net neutrality" means that cable and phone companies, which own the main plumbing of the Internet, should not block content or discriminate and should manage their networks transparently.

Beyond that, anyone trying to describe it to a lay person will see listeners zone out within seconds, typically accompanied by a nictitating membrane covering the eyes and slow, polite nods.

Now, the debate has evolved into a such a confusing cacophony of strident free-speech declarations and network- management business-speak that it's little wonder most consumers are stumped. The term itself has been intentionally co-opted by giant corporations on both sides of the debate to the point where it means whatever its supporters want it to mean — which would require a mind reader with a law degree to divine, and maybe not even then.

That explains, in part, why 73% of Americans want greater disclosure of the details of the FCC's proposal to regulate the Internet. FCC chairman Tom Wheeler has proposed regulating the Internet like a utility under Title II of the Communications Act to ensure his — and President Obama's — vision of net neutrality.

But only one in three Americans, the survey found, thinks that regulating the Internet like telephone service will be helpful. It's a fact that belies the confusion: Big free-speech fans — some of the very "Save the Internet!" viewers roused by comedian **John Oliver's acerbically funny dissection of Big Cable** on his HBO series *Last Week Tonight* — really don't trust big government to do the job either.

Is broadband so essential that the government should be more active in regulating a flourishing, privately capitalized Internet?

Wheeler seems to think that is just the role the FCC needs, given his view of ISPs as the potentially competition-crushing link in the virtuous cycle of edge to net to consumer.

He may not feel it is appropriate to make details of the new rules public before the coming vote, but he should do so afterward, and ASAP.

TAGS:
net neutraiity **TitleII** **Wheeler** **obama** **FCC** **survey** **regulations** **ISPs**

- See more at: http://www.multichannel.com/news/policy/net-neutrality-confusion-reigns/388215#sthash.eDFzPlZ2.dpuf

Multichannel News

Running Scared

Why The Specter Of Post-Linear TV Haunts Media Executives

2/23/2015 8:00 AM Eastern

By: Johnnie L. Roberts

Convulsed by a virulent Digital Disruption, the Ecosystem is an ominous environment, and its inhabitants are afraid — very afraid.

No, that's not the opening line of a creative pitch to studio Netflix for a binge-watchable original sci-fi series. As the tectonic shift to an Internet-centered, post-linear age in television advances, a real, truly anxious mood is settling over the pay TV ecosystem that media, communications and technology companies tensely cohabit.

Since the turn of the century, eight of every 10 homes has connected to the broadband Internet, enabling the disruptive rise of streaming video from pioneering Netflix and empowering a millennial vanguard of cord-shavers, cord-cutters and cord-nevers.

The uneasy mood began to really sharpen late last year, as the shift from linear TV produced a series of jarring developments on the regulatory front and in the mainstream attractiveness of OTT.

No ecosystem CEOs worth their $30 million-minimum pay will admit to it, but buffeted by change, some are feeling the chill of fear.

PLENTY TO FEAR

Not that fear isn't rational, least of all to the lords of the digital jungle — cable operators. The Federal Communications Commission is on the verge of turning broadband into a regulated utility, a policy shift that President Obama urged in November. Alarmed by the possibility of becoming the first broadband-utility colossus, industry leader Comcast recently signaled it could walk away from a year-old, $45 billion proposal to absorb No. 2 Time Warner Cable.

In a report just last week, influential cable analyst Craig Moffett argued the FCC would use its new powers to regulate broadband pricing, crimping cable stocks.

In October, HBO went over-the-top. Pay television's leading premium channel and change agent is aiming to reach the 10 million and rising broadband-only consumers who shun linear pay TV. CBS followed HBO's lead a day later, introducing CBS All Access. Others have followed, and more are in the pipeline.

Then this seismic jolt in January: Disney's ESPN, basic cable's stickiest and most expensive network, joined the lineup of Sling TV, an upstart over-the-top offering from satellite TV provider Dish Network.

HBO and ESPN "are the two pillars of pay TV," said Bob Bowman, CEO of Major League Baseball Advanced Media, which operates the pioneering subscription video-streaming service MLB.tv. "They have correctly determined that they need to explore options as we sit in a new world with a different generation."

Might the ecosystem be witnessing the first meaningful sign that the cable bundle — a linchpin of television economics for two decades — is fraying? If cable's two marquee networks are connecting directly to viewers over the Internet, Bowman said, "then I think every media company in the world has to do it." Not everyone believes that would be positive for the ecosystem. Blared the headline on one analyst report: "An OTT Free-For-All Would Be a Mad, Mad, Mad World."

Once the original disruptors, cable operators and programmers after two decades of booming stock growth are acutely experiencing the unsettling impact of digital disruption, a circumstance long and harshly familiar to print media and the music industry.

Indeed, every inhabitant of the television ecosystem — MVPDs, ISPs, OTTs, programmers, audience trackers, media conglomerates — sees something in this roiling period of change to fear.

There's frothy uncertainty surrounding disruption in advertising, due to factors ranging from anachronistic audience-measurement tools to the fickle tastes of a demo whose biggest life decision at the moment is gum flavor. Even the tiniest misstep or unforeseen event can bring big peril.

A star can retire, robbing a programming giant of leverage needed in carriage talks. Think Viacom: It was already under a cloud over its programming prospects when Jon Stewart on Feb. 10 announced his leave-taking from Comedy Central's *The Daily Show With Jon Stewart* sometime later this year.

For programmers, the shift to post-linear TV boils down to a stark choice: adapt or dwindle further faster. Fully-distributed networks are less fully-distributed already. As millennials cut cords to hopscotch among IP devices to watch video, cable operators are dropping lesser-watched channels. As a result, affiliate fees have slipped by a single-digit percent in two years, analysts estimate.

According to new Nielsen data, millennials are fleeing linear-TV during the current TV season at twice the pace of past years — dropping by 10.6 million from September 2014 to January.

"The change in behavior is stunning. The use of streaming and smartphones just year-on-year is double-digit increases," Alan Wurtzel, NBCUniversal's audience research chief, told *The New York Post*. "I've never seen that kind of change in behavior."

Overall, primetime viewers have fled broadcast television for two straight years, down a total 12%, while cable lost 7% of its audience last year. In tandem, television advertising dropped. How much and when, if ever, will it fully recover? How much more of it will shift to IP devices? Which of their networks must content owners protect at all cost? Which are expendable? These are cold-sweat questions that content companies are asking now.

Worse, in this Golden Age of Television, programmers are drowning in quality programming, as content companies go all out to lure and retain audiences who now have a world of choices. Every network or website or movie service seems to own a tentpole series or two — the motion picture model leaping to television. Programmers may look forward to some expensive flops. (It is however, a good time for viewers, who can binge, time-shift or sprawl in front of linear TV.)

Meanwhile, competition is surfacing everywhere. Google, the gargantuan of online advertising, is installing Google Fiber, its own turbo-speed broadband service, in major cities, pressuring cable broadband to play catch-up. Now, with Verizon in its crosshairs, Google also is reportedly poised to introduce its own wireless service, leasing the networks of Verizon rivals Sprint and T-Mobile.

Google's intent: To drive down data-plan pricing. Lower prices could spark a boom in data usage, gaining greater consumer exposure to ads on Google. Not only could pricing disruptions potentially harm Verizon's core business. At the same time, Google's move also may complicate Verizon's strategy to dominate mobile video and wrest a chunk of the online ad market now dominated by the search giant.

"There's a fear of the unknown," said Edward Bleier, a senior industry consultant and the retired executive who ran the Warner Bros. pay TV division in the 1980s and 1990s. "No one can analyze the changing developments and feel fairly confident that they are right — the fear is not being sure you have the right take on what will happen."

For years, digital disruption risks have been spelled out in clear language in many annual reports, including 21st Century Fox's: Digital technology and "enhanced Internet capabilities and other new media may reduce television viewership, the demand for DVDs and Blu-rays and the desire to see motion pictures in theaters. Failure to effectively anticipate or adapt to emerging technologies or changes in consumer behavior could have an adverse effect on our business."

Yet the company still hasn't figured out how to extract full value from online viewing of the company's content. "We've got to catch up … in our ability to figure how we monetize and capture the value inherit in that viewership," 21st Century Fox chairman and CEO Rupert Murdoch acknowledged during last year's third-quarter earnings call.

'EVERYWHERE' GETS NOWHERE

History shows that incumbents really don't react to disruptive products and services until it's too late. That's because either the market is too small or there's a risk of cannibalizing one's own business.

Liberty Media chairman John Malone, one of cable's most seasoned and successful investors, has subtly chastised U.S. cable operators and programmers for not getting TV Everywhere together fast enough. "The cable industry has been very slow [which has] created a window of opportunity to the over the top guys," he told Reuters, referring to Internet-delivered TV services such as Netflix.

Bolstering the point in an earnings call last week with analysts, Discovery Communications CEO David Zaslav warned that further delay of TV Everywhere by cable would force programmers to go OTT. "It will require all of us to go directly to the consumer, because the cable guys aren't getting it done," he said.

In addresses to investment analysts, Time Warner CEO Jeff Bewkes has cited a tendency by media executives to avoid being a first mover because of the risk of embarrassment. In contrast, he explained, Time Warner has moved decisively to exploit its content inside the ecosystem (on pay TV and as a supplier to broadcasters) and outside (over the Internet).

"The more options you give audiences to access video content, the greater the consumption," Bewkes told one Wall Street gathering. "Rather than merely shifting share from one platform to another, we continue to see growth in the video universe, and that's why we're convinced we can effectively pursue growth in both areas."

Time Warner's Bewkes knows a thing or two about digital disruption and may be one of the ecosystem's braver CEOs, having survived the corporate near-death experience of the Time Warner- AOL combination.

At Disney, fear of the consequences of inaction spurred the company to be a first mover in embracing Internet video. Also credit Disney chairman and CEO Robert Iger, who forged close ties with the late Steve Jobs of Apple. Jobs was Disney's largest single shareholder as a result of selling Pixar Animation to the media giant. Talk about a model relationship. Together, Iger and Jobs virtually jump-started the 2.0 digital revolution by jointly introducing Apple's paradigm-shifting video iPod with $1.99 Disney-owned TV hits at iTunes. Iger's peers privately scoffed and accused him of harming television revenue streams.

It shouldn't be surprising that TV executives would scoff at the notion that they are fearful, particularly based on the last few years of stock performance. And gauging the true mood of an industry at its inflection point is tricky business. In the mid-1990s, who knew DVDs would supplant videocassettes, ushering in an unprecedented period of bottom-line enrichment and value-creation in Hollywood? But divided into warring format factions, Hollywood certainly wasn't initially in the buoyant mood that prevailed when the DVD gusher materialized.

In 2000, major music labels did recognize the existential threat of Napster. Still, it was too late to gain command of the disruptive forces Napster unleashed, and the music industry will never be the same. Then there's the risk of misinterpreting a true shift. When AOL acquired Time Warner in 2000, the combination was hailed as fully realized convergence. In truth, the monumentally ill-fated transaction marked the bust of Internet 1.0.

If any player recognizes a tectonic shift, it's HBO. Expanding the premium channel's audience beyond cable "is the most exciting inflection point in HBO history,” CEO Richard Plepler declared in announcing cable-untethered HBO. “Just the threat of going over-the-top gives us additional leverage.”

How might streaming HBO impact Comcast, Verizon, DirecTV and the rest of the herd of pay TV giants? A recent Parks Associates survey found that 17% of U.S. households likely would subscribe to the standalone streaming network. Of the respondents planning to subscribe, half indicated they would drop pay TV for HBO over-the-top.

The mood of pay TV and broadcast executives would brighten considerably with audience-tracking tools suited to post-linear TV. If there’s one consensus in the ecosystem, it is that viewership isn’t measured across the universe of platforms and digital devices. The vast majority of the missing viewers are apparently millennials.

Not surprisingly, Nielsen, the dominant TV ratings service, catches plenty of flack. The ecosystem took note in January when CNBC suddenly dumped Nielsen and hired a little-known obscure market researcher, Cogent Reports, to track its daytime audiences.

“If you counted all the viewing that we know that’s not counted the traditional way” by Nielsen for The CW network, “it’s up 10%” from reported ratings, Bewkes of Time Warner, part owner of the network, recently told Wall Street analysts. Alluding to time-shifted viewing and OTT audiences, CBS CEO Leslie Moonves (the other part owner of The CW) has declared Nielsen’s overnight ratings as “basically worthless.”

But broader, more-accurate audience tracking won’t necessarily restore confidence. In fact, media executives will face decisions fraught with risk of economic miscalculation. Should they charge advertisers more to reach young-skewing mobile and digital-device audiences, a coveted demo whose preferred platforms are more dynamic? Would advertisers, in turn, give a haircut to ad rates for older-skewing linear-TV audiences? Or should the various ratings be rolled into one, with advertising rates reflecting the quality of the overall audience?

It's an "issue that realistically we are very much in the midst of evaluating and analyzing," 21st Century Fox chief operating officer Chase Carey said on a recent quarterly earnings call with analysts.

THINKING AHEAD

With indications that the cable bundle could come under greater pressure, media companies must swiftly begin contingency planning. For two decades now, pay TV has expanded its bundles and justified annual rate hikes of 4% to 5% by citing the surging number of channels. Per Nielsen, the average pay TV household has 190 channels, only 14, 15 or 17 of which are watched regularly in any given home. Meanwhile, the average monthly cable bill of about $64.41 a month, according to the FCC, is triple the amount of two decades ago, when the agency began tracking the rates. Pay TV distributors have responded with slimmed-down bundles, but so far that hasn't been enough to staunch subscriber declines.

Consumer choice, made possible by technology, is fueling the rapid changes in the environment. Pay TV operators are certain to be more concerned over consumers' growing appetite for a la carte channels, from which consumers could cobble their own personalized bundles. Some 41% of respondents surveyed recently by PricewaterhouseCoopers said they'd prefer the option. Given the growing number of OTT choices, personalized a la carte bundles seem to be a phenomenon on the near horizon.

In the end, though, Darwinism doesn't seem to apply to television's evolution. Broadcast, thought surely to be left for dead as cable emerged, has continued to thrive alongside cable, which has remained dominant next to satellite-TV, which has remained aloft since households began to plug into telecom television. (Q: What's the state flower of West Virginia? A: Satellite dish)

For now and the foreseeable future, television will continue to thrive on the incumbent economic model of ads, retransmission fees and sizeable slices of the nation's monthly cable subscription. Even as old-school executives like Bewkes of Time Warner and Moonves of CBS move first to embrace OTT, they remain among the most ardent defenders of the status quo.

But in repositioning their companies, and becoming examples to other cohabitants of the ecosystem, they are wisely fearful enough.

TAGS:

OTT Net Neutrality media traditional linear mobile

- See more at: http://www.multichannel.com/running-scared/388221#sthash.Fv7g3zff.dpuf

Multichannel News

With a Full Agenda, Thune Takes Charge

New Chair's Plate packed with Title II , Security, Spectrum

2/23/2015 8:00 AM Eastern

By: John Eggerton

Sen. John Thune (R-S.D.) has begun his tenure atop the Senate Commerce Committee at one of the busier moments in communications history, with the Federal Communications Commission preparing to woo spectrum back from broadcasters and reclassify cable Internet-service providers as common carriers under Title II of the Communications Act. Add in cybersecurity, online privacy and the associated challenges prompted by the Internet of Things, and Thune's plate is more than full — and that is only one province in the committee's oversight realm. In an exclusive interview, Thune talked to *Multichannel News* Washington bureau chief John Eggerton about his priorities, what he thinks can actually make it past President Obama's desk and why the FCC could be strangling the Internet.

MCN: Can you prioritize what you would like to do in the communications space and what you think you can realistically get through both houses and not have vetoed?

John Thune: We are hoping to do something on cybersecurity and data breaches. And I think that is something that could ultimately get signed into law.

We would like to do an FCC reauthorization, which hasn't been done in 25 years. It is long overdue and there has been some good work done on that by [Sen.] Dean Heller [R-Nevada] and [Rep.] Fred Upton [R-Mich.] on the House side.

And we would like to take a run at a telecom update and modernization. That is long overdue as well. I realize that is a heavier lift, and it is going to be more complicated if we can't find a way out of this net-neutrality morass that we are in right now.

I would really like to see Congress step up and provide direction, some rules of the road, if you will, on that issue. But unfortunately we are running into a lot of resistance from the administration and the FCC. And it is hard to get Democrats on Capitol Hill enlisted in that effort.

MCN: Obviously, the elephant in every Washington parlor is network neutrality. The FCC is expected this week to pass Title II-based rules. Why is that the wrong way to go?

JT: We provided an alternative: six pages long, very straightforward, that addresses some of the concerns that people have raised about consumer protections that prevent paid prioritization and throttling and blocking of lawful content, and without ceding this incredible power to the FCC. You're turning the FCC, particularly the chairman, into an all-powerful government entity to regulate and oversee the Internet, something that we think really needs to have the light-touch approach of the last decade continue to be applied.

That's why we think this is a wrongheaded approach. It creates a lot of legal uncertainty. This thing will be tied up in the courts for a long time.

So, Congress is a place where you can provide some real certainty. We just think what the FCC is doing by trying to regulate the Internet like a public utility under a 1934 statute just makes no sense in this day and age.

I'm not saying that the bill we put out is the perfect answer, but it certainly takes us in the right direction.

MCN: Do you think you can get any Democrats on that bill?

JT: I think we had an opportunity until the administration started meddling in it. The president came out last year and said he wanted to regulate the Internet under Title II and that started to freeze some of the Democrats. We were actually working with some Democrats early on, but they have been getting a lot of resistance from the White House and "downtown" [business interests], which has made it complicated.

I think, left to their own devices, we would have some people willing to work with us. And I think it is a much-preferred approach to ending up in endless litigation and having an all-powerful FCC that could change on the whim of a new administration. That to me seems an approach, whether you are at the core of the Internet or an edge provider, you would want more certainty than this approach provides. Also I think you want to avoid a lot of the risk that goes with it.

MCN: If this bill does not gain bipartisan traction, are you considering anything less bipartisan, like a resolution of disapproval or defunding the FCC?

JT: I think we will be taking a hard look at all of those. You kind of look at what the tools are in your toolbox.

Funding would be one. The Congressional Review Act would be another. Some of the Democrats are saying they would be open to a legislative solution, but just want to wait and see what the FCC does first. So we are keeping those avenues open and continuing to have discussions.

MCN: Would you be willing to drop the Section 706 language from the bill (something Democrats oppose)?

JT: That's hard, because we would go back to the Open Internet order of 2010 before the court decision. I think the court, under 706, gave the FCC blanket authority and I think that is problematic, too. So, I would be really concerned, if I were a tech company, [about] what 706 could mean down the road, because it is a tremendous grant of authority and power. [Section 706 requires the FCC to determine whether "advanced telecommunications capability (i.e., broadband or high-speed access) is being deployed to all Americans in a reasonable and timely fashion.” FCC network-neutrality rules based on Section 706 were struck down by the U.S. Court of Appeals for the D.C. Circuit in 2014.]

If they would do away with Title II and limit the Section 706 authority and take it back to where it was before [the court decision], the consumer protections that are being asked for are all addressed in our bill. We think that is really a reasonable way to resolve this and we’re disappointed that we haven’t had more cooperation to date.

MCN: Looking from the 30,000-foot level, there is the argument that broadband is so important and so pervasive that the government needs to step in the way it did with utilities and oil companies. It almost doesn’t matter how you got there, the theory goes, you are so big now we have to do something. What is the argument against that?

JT: I just think you ought to have a need before you do something. All the harms that people are concerned about the cable companies and the phone companies committing are all hypotheticals.

That being said, I understand that this technology has evolved to the point where some of those types of [network neutrality] protections may be necessary. But I still think that there is a big difference between the light touch of regulation that assures competition and the heavy hand that strangles it. And where the FCC is headed is the latter.

But is there a need for a little bit of government oversight? Sure, and you want to make sure that there is an honest broker — a referee, if you will — but what is being talked about by the FCC goes well beyond that and creates a tremendous amount of legal uncertainty and a very chilling effect on investment.

MCN: Should the FCC delay the vote?

JT: Sure. Absolutely. I asked them to do that. I asked [FCC] chairman [Tom] Wheeler to hold off and give us a chance. If he had done that, I think, we might actually have gotten somewhere. We had some Democrats interested in a legislative approach and solution, but I think he got his orders from the president. And I don't think at that point there was any turning back.

The administration made it very clear where they were headed. The president weighed in heavily and I think that is why we are where we are.

MCN: How concerned are you about how heavily the White House reportedly weighed in?

JT: There are some folks who are looking at that. I would expect, in any administration, conversations to occur. So it is not entirely unusual. But the notion that they would create virtually a parallel FCC at the White House and that they would have the level of attention to detail and level of involvement and their hands all over this, it interesting given the fact that the FCC is supposed to be an independent agency.

MCN: Let's talk about your Local Choice plan to give cable subscribers the choice to pay directly for stations that opt for retransmission consent, or not receive them at all if they did not want to pay. Will you reintroduce it in some form?

JT: We will certainly take a look at that issue again. I think sometimes the broadcasting and cable industries get fiercely at odds with one another over these policy debates, but they do tend to complement and enhance each other's value. And I think there are common challenges that they face, common opportunities that they face, from Internet-based competition. And the more that these two industries can look at the long-term picture of serving consumes, there is going to be more opportunity to find common ground.

We think the Local Choice proposal was really recognizing that broadcasters bring value and ought to be compensated for that value, but that there is a limit, probably, to what viewers are going to want to pay. And letting the consumers negotiate that directly with the broadcasters seemed like a reasonable, market-based approach to deal with that issue.

We took a shot at it, and if we get into a telecom update, we'll look at that relationship. We thought it was an innovative of addressing an issue that needs a solution and isn't going away and is going to continue to escalate. Every time there is a blackout it elevates the issue even more.

MCN: You talked about the value of broadcasting and cable. You clearly have experience with the importance of communications, given that you are from a state with a lot of territory and not a lot of people.

JT: I come from a state where you rely heavily on broadcasters, who bring great value because they do all the public safety and weather communications. We have some outlets that do a great job of always being ahead of the weather and we turn to them for that. That is a value that they bring. And, the town I grew up in [Murdo, S.D.] — we had one TV station, a CBS affiliate, so that was it. All we saw was CBS. In about the eighth grade, NBC put up a booster tower and we had two. Now you have cable and the Internet.

It is important to make sure people who live in those areas have access to the same opportunities those who live in the more populated areas do. That is part of the philosophy and the approach I bring to this job.

MCN: That is kind of a good transition to the IP transition. Any sense of how you would like that to be handled?

JT: I think it could be handled as part of a review of the Communications Act. Is there more of a role for Congress to play in that transition and I still think that is an open question.

MCN: **Talk to us about the importance of a permanent moratorium on Internet access taxes and the Permanent Internet Tax Freedom Act you have just reintroduced.**

JT: It's huge. It is something I have been involved in with Senator [Ron] Wyden [R-Ore.] for some time. Protecting the Internet against taxes has provided such a benefit to our economy and its growth, which in turn creates revenue for state and local government. If Congress makes this tax moratorium permanent it will create a certainty that hasn't been there before. I think that helps spur innovation.

We are looking at Internet of Things issues and the power of the Internet to revolutionize businesses. Permanently getting rid of the Internet tax and providing that kind of certainty is really good for investment, and growth, and jobs. In the long run, it's a great economic policy and an issue we should settle once and for all.

MCN: And what are the prospects for passage?

JT: I think still pretty good. We've got it solved for the short term [the moratorium was extended through September as part of a must-pass spending bill]. But nothing is considered in a vacuum, and anytime we bring up the bill there are others who want to amend it. So getting it through the House and Senate will be a fairly heavy lift, but I think that there is good, strong, bipartisan support for making it permanent.

TAGS:

Rep. John Thune

- See more at: http://www.multichannel.com/full-agenda-thune-takes-charge/388224#sthash.9s0afsd6.dpuf

Multichannel News

Comcast, Verizon Beef Up Live Streaming

Channel Lineups Expand Amid Mounting OTT Pressure

2/23/2015 8:00 AM Eastern

By: Jeff Baumgartner

TakeAway

In a move to counter "virtual" MVPDS, Comcast and Verizon are adding more live streams of cable networks.

Facing heated competition from over-the-top video services and new "virtual" MVPDs (multichannel video-programming distributors) such as Sling TV and Sony's PlayStation Vue, two major pay TV operators — Comcast and Verizon Communications — have been ramping up the number of live TV channels available outside the home.

Comcast said Xfinity TV Go, its authenticated TV Everywhere app, offers more than 70 live TV channels after recent additions that include AMC, BBC America, Fox Deportes, Movieplex, Showtime, Univision Deportes and The Weather Channel.

While that's about double the number of live TV channels offered on the TVE app about a year ago, it still represents a subset of the MSO's full live-TV lineup. Comcast allows in-home streaming of its full TV lineup on the Xfinity TV app for the operator's X1 service.

Comcast said TVE activity continues to rise, with more than 30% of Xfinity TV subs using the option each month and the average viewer consuming more than seven hours per month on Xfinity TV Go, up nearly 40% from the same time last year.

Verizon has also been pushing the envelope, announcing recently that its FiOS Mobile App now streams 88 linear TV channels out-of the home (and about 168 in the home) after adding 24 channels from Viacom, including BET, CMT, Comedy Central, MTV and Spike, among others. Those rights come by way of a new carriage deal between Verizon and Viacom announced last October.
- See more at: http://www.multichannel.com/comcast-verizon-beef-live-streaming/388226#sthash.jbLzD8RU.dpuf

Multichannel News

Title II and Legal Gymnastics

2/23/2015 8:00 AM Eastern

By: Lawrence J. Spiwak

This month, Federal Communications Commission chairman Tom Wheeler formally announced what everyone already knew was a foregone conclusion: At its next meeting, the agency will abandon the bipartisan approach to light-touch regulation of the Internet and reclassify broadband as a common-carrier telecommunications service under Title II of the Communications Act.

Not wanting to be a total killjoy, however, Wheeler said reclassification will not mean your grandmother's Title II of the old Bell System monopoly era, but rather a "moderniz[ed] Title II, tailor[ed] for the 21st century." Indeed, according to an FCC fact sheet, while the proposal will prohibit blocking, throttling and paid prioritization — as well as, for the first time, regulate the rates, terms and conditions of interconnection agreements between broadband service providers (BSPs) and edge providers — the FCC also plans to forbear from all tariffing requirements under Section 203.

While we have yet to see its legal rationale, we do know this: To ensure this proposal passes the "giggle test" with a reviewing court, the FCC will engage in more legal gymnastics than a Cirque du Soleil show on the Las Vegas Strip.

The first hoop the FCC must jump through is to explain why its original finding that broadband is a Title I information service (upheld by the Supreme Court in the *Brand X* decision) is now wrong. While the Supreme Court's decision in *FCC v. Fox Television* provides agencies with great latitude to change policies, provided they articulate a clear reason for doing so, it is not clear that reclassification is simply a change in FCC "policy" or a change in facts regarding how the Internet works. It's a mundane, in-the-weeds distinction, but an important one upon which the entire scheme rests.

Assuming the FCC can get past the *Brand X* problem, it must then explain forbearing from mandatory tariffing of retail broadband service and for the terminating access service needed by edge providers. In the past, it has granted forbearance from price regulation based on the presence and effectiveness of competition. The rationale is that competition will protect consumers. When the FCC has found a lack of competition, it has denied forebearance on rate regulation.

The problem here is that the agency has rejected the presence of competition in the relevant markets at issue in the Open Internet rulemaking. Earlier, the agency defined (and the D.C. Circuit in *Verizon v. FCC* upheld) the relevant product market for net-neutrality regulation as "terminating access" and the relevant geographic market as each individual BSP. Thus, as Wheeler likes to gleefully remind us, each BSP is a "terminating monopolist." As to retail, the FCC's recent decision to define broadband as 25 Mbps means that half of U.S. households now have only a single provider.

How will the FCC convince the courts that forbearance does not abandon the principles of "just and reasonable" and not "unduly discriminatory" rates? It's a difficult task that signals a highly contrived legal argument.

Lawrence J. Spiwak is president of the Washington, D.C.-based Phoenix Center for Advanced Legal & Economic Public Policy Studies.
- See more at: http://www.multichannel.com/title-ii-and-legal-gymnastics/388228#sthash.gSliItee.dpuf

Multichannel News

Net Neutrality Backers Target Lawmakers for Taking Comcast's Cash

Liberal group Demand Progress makes no bones about its dislike of Comcast or that company's opposition to Title II reclassification of broadband providers as common carriers — a stance in which the cable giant is joined by almost all of its telecom peers, large or small, wired or wireless.   In an e-mail slugged "effing Comcast," the group also took aim at Republicans on Capitol Hill for the financial support they have received from the cable operator.   Demand Progress said it wants to raise enough money to raise billboards in the home districts of House Energy & Commerce Committee chairman Fred Upton (R-Mich.) and Communications Subcommittee chair Greg Walden (R-Ore.) to point out that Comcast is the No. 1 and No. 2 donor, respectively, to their most recent re-election campaigns and that both lawmakers oppose Title II. Both legislators support a bill that would block Title II reclassification.   But the top donor to Walden was the National Association of Broadcasters — it was No. 2 for Upton — and the NAB has not taken a position on Title II.   In fact, Comcast executives are generally as likely to be slammed for being too close to President Obama — the main force pushing for Title II — given that some top Comcast officials, including CEO Brian Roberts and executive vice president David Cohen, are Obama supporters.   A Comcast spokesperson pointed out that the company gives to Democrats, too. "Our PAC and employees are also donors to [Sen.] Edward Markey [D-Mass.], [Rep. Anna] Eshoo [DCalif.], [Sen. Corey] Booker [D-N.J.] too — all people who want Title II."   Broadcasters and cable operators, unsurprisingly, contribute to deregulatory legislators who support their positions, though Demand Progress suggested that money does the talking.   A spokesperson for Republicans on the House Energy & Commerce Committee had no comment on the campaign to billboard Comcast's financial support.   Demand Progress is one of the groups that last month launched 535 separate websites, one for each member of the House and Senate, to identify where they stand on Title II. — John Eggerton - See more at: http://www.multichannel.com/walsh-cable-vets-back-new-net-serving-justice/388229#sthash.6Rtp5PcO.dpuf

Multichannel News

Cable Companies Lose Big at FCC, Barriers to Community Broadband Struck Down

Thu, February 26, 2015 | Posted by rebecca

For Immediate Release: February 26, 2015

Contact: Christina DiPasquale, 202.716.1953, Christina@fitzgibbonmedia.com

BREAKING: Cable Companies Lose Big at FCC, Barriers to Community Broadband Struck Down

Two southern cities today persuaded the Federal Communications Commission to recognize their right to build their own publicly owned Internet networks where existing providers had refused to invest in modern connections. The 3-2 FCC vote removes barriers for municipal networks in Chattanooga, Tennessee and Wilson, North Carolina, to extend their high-quality Internet service to nearby areas.

… Our Statement Here …

Rochester Pursues Business Case Study for Muni Network in Minnesota

Mon, February 23, 2015 | *Posted by rebecca*

The Rochester City Council recently voted unanimously to move forward with a study on the possibilities of publicly owned broadband in this southeastern city. Rochester will then decide whether to move forward with bids to form a public-private partnership for a network, or pursue another path.

After receiving dozens of calls from his constituents, City Councilman Michael Wojcik is asking his colleagues to consider a municipal network. Rochester's area holds a population of about 110,000, and is home to the world-famous Mayo Clinic.

According to the Rochester Post-Bulletin, Charter Communications operates its cable TV and Internet services under a *franchise* agreement with the city. That agreement is up for a renewal on March 31.

... Read our Full Coverage Here ...

FCC Pushes Cable's Buttons

Reclassifies ISPs as Common Carriers, Pre-empts State Laws

3/02/2015 8:00 AM Eastern

By: John Eggerton

TakeAway

In a one-two punch with plenty of theatrics, the FCC last week voted in favor of Title II and pre-emption of state broadband laws.

WASHINGTON — Accompanied by some political theater and against a backdrop of stinging minority dissents, a divided Federal Communications Commission voted 3-2 along party lines to reclassify Internet access as a telecom service subject to both Title II regulations and the FCC's Section 706 authority to promote high-speed broadband.

There was no real suspense around the vote given that FCC chairman Tom Wheeler had tipped his Title II hand three weeks earlier.

The FCC majority voted to establish brightline rules against blocking, throttling and "prioritized fast lanes," as Wheeler called them, extending all the rules for the first time to mobile as well as fixed broadband. The agency also adopted a general conduct standard to deal with case-by-case complaints about conduct that does not fit under those rules — such as sponsored data plans or zeroed rating plans — as well as "new and novel" threats to consumers, competition or innovation, Wheeler said last week.

ROOM FOR RATES

Internet-service providers said they see a lot of room in that standard for FCC intervention, including ex post facto rate regulation.

The FCC’s Enforcement Bureau will respond to both formal and informal complaints, and can generate its own investigations into those new and novel practices. If asked, the bureau will also provide guidance, though nonbinding, to companies wanting to know whether their practices might not pass muster.

For the first time, the FCC is also asserting authority over interconnections in the context of net neutrality and will investigate complaints, under the Title II just-and-reasonable standard, on a case-bycase basis.

The rules apply to commercial broadband, not enterprise business services.

“The Internet is simply too important to allow broadband providers to be the ones making the rules,” Wheeler said, making it clear that he did not think comparisons to past treatment of broadband held up to what is inarguably one of the most transformative technologies in history.

Now the waiting begins, first for the final order to be released, then for publication in the *Federal Register*, then for the rules to take effect 60 days after that (all but the enhanced transparency rules, whichmust be vetted by the Office of Management and Budget). The FCC may be asked to stay the rules, which it will not. A court will definitely be asked to stay the rules, which is a slightly harder call. Wheeler said last week he thinks a stay would be a high hurdle.

CTIA-The Wireless Association and USTelecom, representing mobile and fixed telco ISPs, last week told the FCC they would see the agency in court.

The five FCC commissioners — or at least the three Democrats who voted for Title II — are already slated to defend their decision at a March 18 Hill hearing before the Senate Commerce Committee, and the House Energy & Communications Committee is trying to line them up as well. Republicans in both houses will push their bill to block the Title II vote. But even if it passed both GOP-controlled houses of Congress, President Obama will almost certainly veto it, since he came out strongly for Title II.

A few of inches of snow delayed, but did not prevent, the FCC from holding the historic vote Feb. 26, or what Title II advocate Sen. Ed Markey (D-Mass.) had christened “Internet Innovation Freedom Day.” Wheeler called it “the proudest day of his public policy life.”

PRE-EMPTION PUSH

While Title II was getting all the attention, the FCC delivered something of a one-two punch at the Feb. 26 meeting, voting to preempt state laws limiting the expansion of municipal broadband.

The FCC signaled it could not pre-empt state laws that prevent municipal broadband, but that if a state had authorized a city’s buildout, the agency could prevent states from limiting the network’s expansion beyond the footprints of the public utilities providing the service.

Dissenting Republicans called the move illegal and a threat to state sovereignty.

The decision only applied to petitions for pre-emption by Chattanooga, Tenn., and Wilson, N.C., but Wheeler has suggested it gives a signal of what the FCC can and would do in similar circumstances.
- See more at: http://www.multichannel.com/fcc-pushes-cable-s-buttons/388453#sthash.ToLJDlOC.dpuf

Multichannel News

Netflix Weighs Next Steps Following FCC's Title II Vote

3/02/2015 8:00 AM Eastern

By: Jeff Baumgartner

The Federal Communications Commission's vote last week to reclassify broadband under Title II introduces new provisions covering paid interconnection between Internet service providers and "edge providers," such as Netflix, but it's still unclear if the new rules will have a retroactive effect on existing deals.

Netflix, the popular over-the-top video provider that has reluctantly agreed to enter paid interconnection deals with some of the nation's largest ISPs, cheered the vote, which opens the door to a case-by-case review of interconnection- related complaints.

"Today's order is a meaningful step towards ensuring ISPs cannot shift bad conduct upstream to where they interconnect with content providers like Netflix," the company said in its statement. "Net-neutrality rules are only as strong as their weakest link, and it's incumbent on the FCC to ensure these interconnection points aren't used to end-run the principles of an open Internet."

But does Netflix plan to lodge any complaints to the FCC in the wake of last Thursday's vote? Stay tuned.

"We will review the order and decide next steps," a Netflix spokeswoman said via email.

The FCC won't release the new rules for weeks, so it's not entirely clear what recourse Netflix might have with respect to the paid interconnection agreements it has already signed with Comcast, Time Warner Cable, AT&T and Verizon.

The rules would, for the first time, give the commission the authority "to hear complaints and take appropriate enforcement action if necessary, if it determines the interconnection activities of ISPs are not just and reasonable."

How it determines that remains the question. Dan Rayburn, executive vice president of **StreamingMedia.com** and principal analyst at Frost & Sullivan, noted that the FCC could look at everything from the going rate of transit to third-party content delivery network pricing to determine what is considered just and reasonable with paid interconnection agreements. "What is the baseline metric?" he asked. "We don't know."

Rayburn also said he believes that Netflix will have difficulty arguing its pact with Comcast is unfair, noting that the deal is already sweetened with locked-in multi-year pricing and service- level agreements covering installation, packet loss and latency.

Ahead of last week's vote, Netflix urged the FCC to include paid interconnection deals within the scope of the new rules, labeling such agreements an "arbitrary tax" on it and other OTT video service providers. Netflix's preference is that ISPs join Open Connect, a private CDN program that relies on Netflix-supplied edge caches.
- See more at: http://www.multichannel.com/netflix-weighs-next-steps-following-fcc-s-title-ii-vote/388454#sthash.W4CfwxWw.dpuf

Multichannel News

Meet the FCC’s Network Neutrality Cop

Tough Bureau Chief IS Set to investigate Complaints

3/02/2015 8:00 AM Eastern

By: John Eggerton

WASHINGTON — Remember the name Travis LeBlanc. The Enforcement Bureau chief will likely be one of the most powerful non-commissioners at the Federal Communications Commission now that the agency, under chairman Tom Wheeler, is ramping up its complaint process under the new Title II-based Open Internet order.

The order has three bright-line rules against unreasonable blocking, throttling and paid prioritization. But other practices that fall outside of those provisions, such as complaints about interconnection, usage-based pricing and other matters the FCC hasn’t anticipated, will be addressed under either a Title II “just and reasonable” standard (interconnection) or a general conduct standard catch-all with the Enforcement Bureau tasked with investigating and taking action.

‘USE THESE PROTECTIONS’

“Rules are only as good as their enforcement, and so we hope and expect that the agency will use these protections if and when carriers attempt unreasonable practices,” said Matt Wood, policy director at advocacy group Free Press, which has pushed for tough new rules.

LeBlanc is chief of that Enforcement Bureau. He has shown a bulldog’s tenacity for hauling Internet-service providers and others on the carpet in the name of protecting consumers, and he will be getting some new muscle under the Title II-based regulations.

On the day before Wheeler circulated the rules, the chairman sent a letter to Sen. Ron Johnson (R-Wisc.), informing the lawmaker that he did not think it was necessary to follow the Goverment Accountability Office's recommendation that the FCC work with ISPs to develop a voluntary code of conduct on data use and pricing. Wheeler said the agency's enhanced transparency rule, backed by enforcement, plus its streamlined complaint process, should be sufficient.

In a warning to ISPs last July about what the FCC billed as "hundreds" of Open Internet complaints, the Enforcement Bureau threatened million- dollar fines and LeBlanc promised to hold ISPs to account for any failures to deliver on their promises.

And during an FCC roundtable back in September, LeBlanc made it clear that Title II was very much on the table.

Although he reminded the audience that the session was on enforcement issues, not underlying legal authority, LeBlanc said he wanted to remind panelists and "and those who are listening near and far" that Title II was in play.

LeBlanc even gave Title II top billing and Section 706 something of a supporting role, at least rhetorically. He said he wanted to highlight the differences "if the commission ultimately decides to rely on Title II, or some other legal authority, such as Section 706."

LeBlanc, who has degrees from Princeton, Harvard, Yale and Cambridge (yes, all four), oversees 24 field offices (the Enforcement Bureau is the FCC's largest "organizational unit").

Prior to the FCC, as California special assistant attorney general, he established the state's first high-tech crime and privacy enforcement units.

Before that, he worked in the Obama administration, advising the president and Attorney General Eric Holder on constitutional and legal matters.

“The Enforcement Bureau under Le Blanc has not tried to settle things just to settle them,” said Harold Feld, senior vice president of Washington- based public-interest group Public Knowledge. “They’ve imposed real fines for violations, and required parties to put meaningful procedures in place to ensure that violations won’t happen again. We are going to need to see very early that the commission is serious about following up on complaints and violations.”

ALL ABOUT ENFORCEMENT

In advance of the FCC vote, the House Communications Subcommittee held a hearing on net neutrality where most witnesses warned the proposed regime would lead to regulatory uncertainty, as well as dire consequences for innovation and investment.

That was a sign they are worried about enforcement, Feld said: 90% of the noise Republicans are making isn’t about stopping the vote, as GOP lawmakers know that won’t happen. “The noise today and hearings [last week] is about discouraging the FCC from actually enforcing the rules once they are adopted,” he said.

Feld said he doesn’t see LeBlanc being dissuaded from his appointed rounds. “I think LeBlanc is the kind of Enforcement Bureau chief who has what it takes to do his job and enforce the rules,” he said, and “not let powerful companies off with a slap on the wrist or settle something just to claim a win and make it go away. That’s good, because we need someone willing to be the cop on the beat for the open Internet in the face of what will be serious Republican political resistance.”
- See more at: http://www.multichannel.com/meet-fcc-s-network-neutrality-cop/388463#sthash.kk8XeQ5V.dpuf

Multichannel News

Trade Journal Links

Wheeler's comments at the Silicon Flatirons Center in Boulder, CO, yesterday provide some additional details into his yet-to-be published plan...

http://www.wirelessweek.com/news/2015/02/wheeler-expect-modernized-title-ii-not-hybrid-approach?et_cid=4412637&et_rid=725767119&location=top

"Facebook Is Bigger Than the Internet: Millions of the social-networking site's users have no idea they're using the Internet when they log onto their profiles." | The Atlantic

"Netflix, AMC, Sony Execs Talk 'New Era of Television': 'The Way We Keep Score Has Changed'" | Variety

"Eight Developments That Are Disrupting the TV Industry" | Advertising Age

U.S. Senators Klobuchar (D-MN) and Fischer (R-NE) introduced bipartisan legislation/ "The Rural Spectrum Accessibility Act would provide incentives for wireless carriers to lease unused spectrum to rural or smaller carriers in order to expand wireless coverage in rural communities." | Press Release

"Time Warner Cable Successfully Blocks Funds for Community Network in Maine; Project to Continue" | Community Broadband Networks

43 municipal broadband providers asked the Federal Communications Commission to avoid reclassifying them as common carriers; Argue that small ISPS have no incentive to interfere with Internet traffic. | Ars Technica

"Municipal broadband providers disagree over FCC Chairman Tom Wheeler's proposal to reclassify broadband providers as public utilities under Title II." Some back the proposal, while others oppose it. | Computer World

As conditions on Comcast's merger, the California Public Utilities Commission would require Comcast to offer low-income homes 10 Mbps Internet, better customer service, and would require that 45% of qualified customers sign up for the low-income program within two years. | Broadband Reports

"Top cable lobbyist: 'Customer service right now is completely unacceptable.'" | Washington Post

"FCC's 25 Mbps broadband definition isn't dampening CenturyLink's investment plans" | FierceTelecom

"Hate Your Internet Service Provider? You Should Have Feb. 26 Circled on Your Calendar" | Motley Fool

"Another problem is that online video providers aren't growing a viewing audience; they're simply competing for a bigger slice of the 'same viewing pie,' because total TV viewing in the U.S. has remained flat, he explained." | FierceOnlineVideo

Commissioner Clyburn: "[I]t is clear that laws restricting the ability of a community to respond to the technology infrastructure needs of its citizens, is a barrier to deployment. I firmly believe that the locality should be able to respond to the demands of their community, when the private sector has opted not to." | FCC Press Release

"Cities are interested in building Internet services that could compete Verizon, Time Warner, and Comcast—and the legal barriers standing in their way are coming down." | Fast Company

"Competition is the key to faster, better internet." | Time

"Advocates for pay-TV providers are saying the FCC should use Section 706 to act more aggressively against the companies that produce TV content." | Washington Post

"Judges Question FCC's Need To Share What Comcast & DirecTV Pay To Broadcasters" | Consumerist

http://www.mprnews.org/listen/?name=/minnesota/podcasts/daily_circuit/2015/01/dailycircuitinternet_20150115

"This FCC Rule Will Matter More Than Net Neutrality Will: The decision in favor of municipal broadband networks does more than "open Internet" rules ever could to increase competition in a broken market." | MIT Technology Review

Steve Wozniak on yesterday's decision: "There's no big ISP that is going to bring broadband to my house. And I don't have broadband and I'm Silicon Valley and I don't have broadband because I have no choice." | Cult of Mac

"FCC Votes to Allow Municipal Broadband, Overruling Two States' Laws" | Wall Street Journal

"Feds Nullify State Laws on City Internet: Net neutrality may get more attention, but the FCC is also making a major push for community Internet service—a priority for Obama." | National Journal

"FCC overturns state laws that protect ISPs from local competition: Municipal broadband networks could expand because of FCC's controversial vote." | Ars Technica

"FCC Votes To Allow Cities To Expand Broadband Networks" | The Consumerist

"Bill Introduced to Block FCC Municipal Broadband Preemption;Rep. Blackburn (TN) and Senator Tillis (NC) take aim at decision" | Broadcasting & Cable

Rep. Blackburn introducing a bill to undo the FCC's municipal broadband decision: "The FCC's decision to grant the petitions of Chattanooga, Tennessee and Wilson, North Carolina is a troubling power grab." | Ars Technica

"FCC votes for net neutrality, a ban on paid fast lanes, and Title II: Internet providers are now common carriers, and they're ready to sue." | Ars Technica

One Google Fiber executive says bureaucracy is what's holding back the rollout. "If you make it easy, we will come," said Milo Medin, Google Fiber vice president "If you make it hard, enjoy your Time Warner Cable." | International Business Times

"Study: U.S. fiber cross-connect pricing is higher than Europe" | FierceTelecom

"What Net Neutrality Rules Could Mean For Your Wireless Carrier" | NPR

"FCC approves net neutrality rules for wireless, putting future zero-rating plans on notice" | FierceTelecom

Mpls. faces tricky questions over cable TV, Internet competition

"The Most Important Decision the FCC Made Last Week Wasn't on Net Neutrality" Why the FCC's Community Broadband Decision will have "major implications for promoting competition, increasing broadband speeds, and perhaps even making Internet access look more like electricity." | The New Republic

"A recent FCC ruling paves the way for more cities to jump in to the internet game. Philadelphia was a pioneer in that arena. Wireless Philadelphia — with its positive legacy and fatal shortcomings — offers plenty of lessons [for other big cities]." | Technically Philly

"How Do Municipalities of Different Sizes Use the Internet?" | Government Technology

Improving Cities by Investing in Next-Generation Internet: A coalition called Next Century Cities is bringing leaders together to demonstrate the value of Internet infrastructure investments, celebrate member cities' successful projects, and help other cities do the same. | Government Technology

"Structural alternatives to the Internet monopolies are still needed. The battle for Internet freedom has only just begun." | Huffington Post

"The FCC is considering allowing online services to operate as 'multichannel video programming distributors,' an action that could benefit consumers and competition by opening up the video marketplace to new entrants, and paving the way for online services to offer the same kinds of channels that are available today only through traditional pay-TV services like cable and satellite." | Public Knowledge

National Association of Broadcasters endorses the FCC proposal that "online video distributors (OVDs) wishing to carry broadcast signals must obtain retransmission consent from the owners of the signals just as cable and satellite operators do." | TV News Check

"'HBO Now' coming this spring for $15 per month, with Apple as launch partner" | Ars Technica

Study finds "the thirteen largest pay-TV providers in the US -- representing about 95% of the market -- lost about 125,000 net video subscribers in 2014." | Leichtman Research Group

"Why Comcast, AT&T and other Internet providers might not sue the FCC (to overturn the agency's net neutrality rules) after all." | Washington Post