

Video Increasingly Goes Mobile

Mobile devices generate majority of plays: Ooyala study ^{3/27/2017}

8:00 AM Eastern

By: [Jeff Baumgartner](#)

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Evidence continues to mount that the small screen is the new big thing in video consumption.

Mobile devices represented 56% of all video starts, led by smartphones, desktops and, to a smaller degree, tablets, according to Ooyala's *Q4 2016 Global Video Index*, based on anonymized online video metrics of the "vast majority" of the online video company's 500-plus customers.

Boiled down further, some 56% of all advertising-based VOD views came way of smartphones and tablets, the company found.

However, the length of video viewed was directly proportionate to the size of the screen being used. Viewing of longform video (20 minutes or longer) was highest on connected TVs, followed by tablets, PCs and smartphones. On the other end, consumption of short-form video (up to five minutes) was most prevalent on smartphones, followed by PCs, tablets and smart TVs.

Based on current growth patterns, Ooyala expects nearly 60% of all video views to be on mobile devices by the end of Q1 2017.

<http://www.multichannel.com/video-increasingly-goes-mobile/411739>

Multichannel News

9th Circuit: Streamers Aren't Cable Operators

Latest ruling favors studios, next one could send issue to high court 3/27/2017 8:00 AM Eastern

By: [John Eggerton](#)

TakeAway

OTT rights are still up in the air, and in the courts, but a recent decision puts distance between them and MSOs.

WASHINGTON — Just what streaming rights do over-the-top video providers have when it comes to broadcast content? The answer: It's complicated.

A pair of U.S. District Courts are split on the issue, though there was movement on the federal appeals court level in the past two weeks.

The issue is whether an over-the-top video provider — in this case, FilmOn X, but theoretically anyone else — can obtain the type of compulsory license that cable operators can get to retransmit the programming of broadcasters without having to individually negotiate for each show.

The 9th U.S. Circuit Court of Appeals ruled last Tuesday (March 21) that FilmOn X and other online video streamers were not the equivalent of cable operators when it came to that eligibility, though it was primarily deferring to a Copyright Office advisory to that effect.

That court was overruling a decision by the U.S. District Court for the Central District of California that FilmOn X did qualify for the compulsory license. It was a win for the Hollywood content suppliers, led by 21st Century Fox, who had challenged FilmOn X in both district court cases at issue. A three-judge panel of the 9th Circuit ruled that “a service that captures copyrighted works broadcast over the air, and then retransmits them to paying subscribers over

the Internet without the consent of the copyright holders, is not a ‘cable system’ eligible for a compulsory license under the Copyright Act.”

But it was hardly a slam dunk in terms of the larger question.

“FilmOn and other Internet-based retransmission services are neither clearly eligible nor clearly ineligible for the compulsory license,” the court also said.

“The Copyright Office says they are not eligible. Because the office’s viewers are persuasive, and because they are reasonable, we defer to them.”

Meanwhile, in the U.S. Court of Appeals for the D.C. Circuit, FilmOn X and the studios held oral arguments in FilmOn X’s challenge to a New York district court decision that the video streamer did not qualify for the license.

FilmOn X attorney Ryan Baker argued that Congress knew technology would change and created the compulsory license “using broad language to encompass technological change.”

He said FilmOn X’s service fit within that language and should not be “shackled to 1970s technology,” as broadcasters wanted.

On the other side, the studios argued that the claim that FilmOn X is a cable system contradicts the Copyright Act and its purpose. They said the compulsory license was meant to apply to providers with “huge” capital investments, like cable operators and unlike FilmOn X.

They pointed out that “inherently localized” transmissions were key to the definition of cable, since cable operators have specialized equipment and control over a defined transmission path — the Federal Communications Commission’s historic definition of a cable operator — while Internet-delivered packets are highly susceptible to piracy, which is factored into the individual negotiations that FilmOn X wants to avoid.

If the D.C. Circuit upholds the lower court, that would be two federal courts ruling that Internet retransmissions are not analogous to traditional cable, along with a half dozen other courts, according to the studios. But if the D.C. Circuit reverses it, that would set up a split with the 9th Circuit that could put the case into the Supreme Court’s docket.

The FCC could clarify the issue by reclassifying Internet video providers as multichannel video programming distributors, as former agency chairman Tom Wheeler once tried to do, but that does not appear to be high on new FCC chairman Ajit Pai’s to-do list.

<http://www.multichannel.com/9th-circuit-streamers-aren-t-cable-operators/411731>

FCC, High Court Picks Tip-Toe Around Politics

3/27/2017 8:00 AM Eastern

By: [John Eggerton](#)

WASHINGTON — President Donald Trump’s picks for the Federal Communications Commission and the Supreme Court have something in common. Both are trying to avoid wading into political hot water. FCC chairman Ajit Pai, elaborating a bit on comments in a Congressional hearing, assured Democrats in a letter that he did not believe the media was the enemy of the people — as Trump has claimed — but finessed the comment by adding that he understood the president to have been saying that it was “fake news” that was the enemy of the people. (Trump has taken a liberal view of “fake news,” including CNN, *The New York Times*, *The Washington Post* and others, particularly when reporting on possible Russian interference in the 2016 election.) Pai looked to close the matter by saying “these comments are part of a larger political debate into which I will not be wading.” Over on Capitol Hill, Supreme Court nominee Neil Gorsuch was also deferring questions about so-called “dark money” funding TV and radio ads and the Citizens United Supreme Court case by saying he did not want to get into politics, though he did say that there was value in anonymous speech, with disclosure being a weapon to chill speech.

The nomination process also continues to fuel TV ad buys.

One senator pointed to a \$10 million “dark money” buy in support of Gorsuch, while the GOP was soliciting funds from supporters for its own six-figure buy to promote the nominee, saying it was another way to fight back against the media and Democrats “obstructing the president’s agenda.”

<http://www.multichannel.com/fcc-high-court-picks-tip-toe-around-politics/411733>

D.C. BRIEFS

4/03/2017 8:00 AM Eastern

By: [John Eggerton](#)

Minnesota Adopts Own Privacy Rules

WASHINGTON — The **Minnesota State Senate** had its own exclamation point for Congress's move to roll back broadband privacy rules. In light of Congress's approval of the Congressional Review Act, and the president's expected signoff, the state Senate voted to adopt its own version of the regulations, according to the *Twin Cities Pioneer Press*.

Republicans had argued that state privacy laws would remain in effect even after the **Federal Communications Commission's** rules were scrapped. Minnesota's Senate took that cue and added its own.

An amendment to an economic development bill passed the Minnesota Senate with the help of one Republican vote. A similar amendment was added to the House bill, which must now be reconciled with the Senate bill.

The Minnesota amendment would prevent any ISP with a franchise agreement in the state from collecting personal information from customers "without express written approval from the customer" or from denying service if that approval was not given.

Those were two key elements of the FCC regulations that were rolled back.

9/11 Overhaul

WASHINGTON — More than 15 years after 9/11, the **Commerce Department** last week announced that **AT&T** had been awarded the 25-year, \$46.5 billion contract to build out and maintain **FirstNet**, the interoperable broadband first responder network. AT&T will invest \$40 billion, and in exchange will get access to the network during nonemergencies. The network is being built using 20 MHz of spectrum set aside from the FCC's 700-MHz auction and the government's \$6.5 billion contribution to the cause came from the FCC's AWS-3 wireless spectrum auction.

Smaller and rural broadband providers were looking to get in on some of that action. "NTCA-The Rural Broadband Association and its members, network operators in rural areas of the country with substantial assets and infrastructure, are eager to partner with AT&T to leverage this infrastructure

and to promote success in the quest to build, operate and maintain a ubiquitous public safety network throughout the country,” said association CEO **Shirley Bloomfield** after the announcement. Read more at multichannel.com/April3.

Fake News, for Real

WASHINGTON — Broadband was much on the minds of the **Senate Intelligence Committee** as it launched a series of hearings on Russia’s efforts to interfere with the 2016 presidential election. That included both cybersecurity issues and the proliferation of fake news that has been amplified by mainstream, and nonmainstream, media chasing the latest story. Committee ranking member **Mark Warner** (D-Va.) cited the media “echo” chamber as partly to blame.

“The Russians employed thousands of Internet trolls and botnets to push out disinformation and fake news at high volume, focusing this material onto your Twitter and Facebook feeds and flooding our social media with misinformation,” Warner said. “[T]his fake news and disinformation was then hyped by the American media echo chamber and our own social media networks to reach — and potentially influence — millions of Americans.” Read more at multichannel.com/April3.

— *John Eggerton*

<http://www.multichannel.com/dcbriefs/411883>

Multichannel News

Congress Powers Down FCC's Privacy Rules

It's unclear what kind of oversight lies ahead for online user data
4/03/2017 8:00 AM Eastern

By: [John Eggerton](#)

TakeAway

ISPs will not face tougher restrictions on collecting and sharing info than edge providers.

WASHINGTON — The Republican Federal Communications Commission and Congress have tag-teamed to put the agency's broadband privacy regulations down for the count. Could the Title II reclassification that created them be next?

FCC chairman Ajit Pai signaled that was his preference.

First Pai, with an assist from Michael O'Rielly, voted to stay enforcement of the data-security portion of the rules. The House then followed the lead of Senate Republicans and narrowly pushed through a Congressional Review Act resolution that would invalidate all of the rules and prevent the FCC from restoring them in substantially the same form.

That would be unlikely to happen under Pai anyway, but the CRA would future-proof them from restoration under a Democratic administration.

The FCC rules required Internet service providers to get their subscribers' permission to collect and share a broad category of sensitive information, including most importantly the Web browsing and app use that marketers — with an eye toward targeting — crave.

It also had data security elements, breach notification requirements and a prohibition on take-it-or-leave-it regimes in which sharing data was a quid pro quo for the ISP programs.

The FCC can still come up with rules along the lines of the Federal Trade Commission's approach to edge provider privacy — based on the sensitivity of the data and without requiring opt-in for Web browsing or app use — using its authority over common-carrier Customer Proprietary Network Information (CPNI). However, that also probably wouldn't happen if Pai could find a way out from under the Open Internet order first.

President Donald Trump is expected to sign the bill (and may even have signed it by press time), adding his imprimatur to the effort to invalidate former FCC chairman Tom Wheeler's effort to put stronger privacy regulations on ISPs because of their perceived "gatekeeper" status vis-à-vis edge provider data-collection giants such as Google and Facebook.

ISPs had promised before, and promised again last week, to abide by a set of principles they committed to in an effort to keep the FCC from adopting the privacy rules last October, rules from which both Pai and O'Rielly dissented. But that framework is full of "shoulds" and "mays," not "musts," and that had privacy advocates using terms such as destroy and damage in decrying the vote as rewarding robber baron ISPs that wanted to write their own rules.

The FCC rules required ISPs to get opt-in permission to collect and share user data for a broad category of "sensitive" information, including Web and app use. Edge providers such as Google and Facebook can collect and share such information with marketers without getting user permission up front.

That's the main sticking point for ISPs, who say that is a thumb on the scale for edge providers, creating an uneven playing field and threatening the ad-supported economic model that allows for all that free online content.

Congressional Democrats have been talking about a new privacy Wild West created by invalidating the rules. But ISPs have not been under those rules since 2015, when the FCC's reclassification of broadband providers as telecoms under Title II of the Communications Act dedeed the agency broadband privacy oversight. What was once the FTC's province would not have been under the new regime until year-end.

It is unclear what the FCC's broadband regulatory approach will be if the rules go away, unless the Open Internet order is repealed. If that happens, Pai has signaled he will be happy for said oversight to return to the lighter-touch approach of the Federal Trade Commission. The FTC's power is essentially to enforce privacy promises and pursue violations as unfair or deceptive practices on a case-by-case basis, rather than writing new regulations.

Pai has said his core goal would be a regulatory framework that establishes a uniform expectation of privacy — and, that popular Republican space, a “level playing field.”

Democratic senators have been saying that if the FCC wants to harmonize privacy protections with the FTC, then why not give the FTC rulemaking authority so it could adopt similarly strong regulations? That, however, is highly unlikely under a Republican administration.

Repeal and Protect

WASHINGTON — Following the House vote to repeal the FCC’s broadband privacy rules, chairman Ajit Pai said he would work with the FTC to protect online privacy. He did, however, suggest that “the best way to achieve that result would be to return jurisdiction over broadband providers’ privacy practices to the FTC, with its decades of experience and expertise in this area.” That can only happen if the FCC reverses the Title II classification of ISPs. Republicans could pay a political price for their votes to invalidate the rules — at least 50 in the Senate and 241 in the House.

And at least one group was trying to exact that price with a public calling-out. At press time, the advocacy group Fight for the Future had mocked up a billboard it said was going up in D.C., calling out those 50 senators, while a second was targeting House Communications Subcommittee chair Marsha Blackburn (R-Tenn.) in her home state.

The group was also taking credit for the fact that 25 Republicans voted against the measure, though it is unclear how they would have voted had they been needed to push it over the top.

— *John Eggerton*

<http://www.multichannel.com/congress-powers-down-fcc-s-privacy-rules/411900>

Multichannel News

Rush Toward Unlimited Plans Complicates Cable's Mobile Moves

Comcast, Charter expected to focus on service bundles, less on going head-to-head with carriers 4/03/2017 8:00 AM Eastern

By: [Jeff Baumgartner](#)

TakeAway

Fiber and WiFi are key assets cable brings to mobile.

A pivot to unlimited data plans by all of the nation's largest cellular service providers is muddling the wireless plans being developed by Comcast and other U.S. MSOs.

AT&T and Verizon Communications, which recently joined Sprint and T-Mobile in offering unlimited mobile data plans, are undermining strategies that some cable operators were pursuing as they look to stitch their ever-expanding WiFi networks to mobile virtual network operator (MVNO) agreements.

Cable operators can put together unlimited plans of their own that use a WiFi-first stance that offloads traffic on metro and in-home WiFi networks and falls back on cellular connections.

"They're scrambling internally" as other carriers launch and emphasize unlimited mobile plans of their own, an industry source with knowledge about those strategies said.

"The industry's rush to unlimited certainly complicates things," Craig Moffett, senior research analyst at MoffettNathanson, said in an emailed statement.

"The cable operators will now have no choice but to make their own wireless

plans unlimited as well. That's a problem. Their revenues will be capped. Their costs will not."

Still absent from the discussion are precise details about how cable operators intend to enter the wireless market, including how those offerings will be priced and packaged and how they will fit into their broader service offerings. Comcast, which has created a mobile division and intends to launch a mobile offering of its own by midyear, has shed some light on its service, which will take advantage of the company's MVNO deal with Verizon.

Speaking at an investor conference in late February, Comcast chairman and CEO Brian Roberts said company watchers can expect Comcast's product to be profitable, but it will launch as part of a bundle.

"The product itself is going to save you money by taking our bundle," Roberts said, and the wireless product will also help Comcast sell other products in its arsenal.

Last week, *FierceWireless* reported that the popular iPhone will factor into a service that will carry the Xfinity Mobile brand.

Charter Communications is also looking to take advantage of an MVNO deal it inherited from its merger with Time Warner Cable and Bright House Networks, but hasn't revealed its go-to-market strategy.

Another person familiar with Comcast's mobile ambitions said it would be incorrect to think that Comcast's plan is to take the major mobile carriers head on. Amplifying Roberts's point, the source said Comcast views the wireless business as additive, a way to enhance and build on its existing product portfolio. "That's an important nuance," the source said.

Another industry analyst believes that the surge of unlimited offerings from incumbent mobile giants won't have a big impact on cable's efforts to re-enter the market, despite past stumbles like the short-lived "Pivot" joint venture with Sprint.

"It's another form of bundling," Bruce Leichtman, president and principal analyst of Leichtman Research Group, said. "It doesn't have to be differentiated from other wireless services. The differentiator, potentially, is the ability to bundle. That's where the value lies, not in the mobile service itself."

Plus, the latest unlimited craze is not occurring to counter what cable operators have in store, according to Jefferson Wang, senior partner, wireless,

at IBB Consulting, a firm that works with a range of mobile and cable providers.

It all ties into competition among those carriers, which have no choice but to match up because the market is already saturated.

“A lot of that innovation is coming from the pricing and packaging side, which means unlimited becomes a very enticing offer to consumers,” Wang said.

He also said not to expect uniformity on how MSOs enter the market or how the move to unlimited models will affect them. How those operators jump in and the goals they set will be determined by whether they have a favorable MVNO agreement and what kind of other network assets they already have at their disposal, including fiber and WiFi infrastructure.

“To get into a consumer smartphone/wireless play is a very narrow definition of a very broad opportunity,” Wang said. “I view it more as a launching point.” Cable operators have a lot of fiber in their networks, but it’s clear that their advantage in WiFi networking assets will be played aggressively.

Comcast, for example, has about 16 million WiFi hotspots deployed in metro and business locations and inside home gateways. At last check, the Cable WiFi roaming consortium, a group that includes Comcast, Cox Communications, Altice and Charter, has deployed about 500,000 hotspots that their respective customers can use.

The amount of data being offloaded on WiFi networks is expected to surge in the next few years.

As of 2016, 63% of all traffic from mobile-connected devices was being offloaded to fixed networks by means of WiFi devices and femtocells each month, according to Cisco Systems’s latest *Visual Network Index: Global Mobile Data Traffic Forecast*. The same report expects that half of IP traffic — fixed and mobile — will be WiFi by 2021, versus 30% on wired networks and 20% via mobile/cellular.

Wang of IBB Consulting said cable operators must be agile and be ready to make changes quickly in the hypercompetitive and ever-evolving mobile market.

“When you create an entry strategy, things can change,” he said. “You have to make sure you really think through your strategy, but make sure it’s flexible.”

<http://www.multichannel.com/rush-toward-unlimited-plans-complicates-cable-s-mobile-moves/411881>

Multichannel News

Comcast Zeroes in on Streaming Future

MSO prepping in-footprint 'Xfinity Instant TV' service 4/03/2017 8:00 AM Eastern

By: [Jeff Baumgartner](#)

Though it has so far stopped short of launching a national streaming service, Comcast is laying the groundwork for a new, in-footprint Internet-protocol TV service that will deliver a variety of packages to mobile and TV-connected devices.

Industry sources confirmed that Comcast is eyeing a third-quarter commercial launch for Xfinity Instant TV, a managed IPTV service that will initially be targeted to broadband subscribers who don't take a pay TV package from the operator.

Reuters reported that the app-based Xfinity Instant TV will be priced starting at about \$15 per month and include packages that could sell for up to \$40 per month and allow for add-ons such as ESPN.

Comcast has not announced pricing or expected launch timing for Xfinity Instant TV, but a source said Xfinity Instant TV would include a cloud DVR component.

Though the initial focus for Xfinity Instant TV will be on broadband customers without a traditional pay TV service, Comcast is also developing a video-only IP video gateway that could support the new, no-contract offering.

Xfinity Instant TV also represents a rebrand of Stream TV, a skinny-bundle IPTV package that Comcast has been testing in select markets, including Boston and Chicago.

The original Stream TV service being trialed costs about \$15 per month and is available only on mobile devices. A source said the rebranded, commercial Xfinity Instant TV service will also support mobile apps as well as certain TV-connected devices. Customers on the coming product will access their subscriptions via a newly unified Xfinity Stream app that also supports the MSO's flagship X1 video service and authenticated TV Everywhere content.

Comcast is beta-testing a pay TV app for the Roku platform, and has one in the works for Samsung smart TVs. The MSO is expected to eventually support other TV-connected platforms through the Xfinity TV Partner Program, which it introduced about a year ago.

Comcast is expected to market and sell Xfinity Instant TV within its traditional cable footprint. The operator has been amassing out-of-market streaming rights to some networks, primarily through “most favored nation” clauses in its programming distribution contracts, but has been clear in its belief that the economics of an out-of-footprint OTT TV service don’t add up.

<http://www.multichannel.com/comcast-zeroes-streaming-future/411897>

Multichannel News

FAQ: What's Up With Broadband Privacy

Republicans in Congress win repeal of Wheeler-era FCC-imposed regulations 4/10/2017 8:00 AM Eastern

By: [John Eggerton](#)

TakeAway

Congress's move to nullify the FCC broadband privacy rules raises questions for both providers and consumers.

WASHINGTON — President Donald Trump last week signed into law the successful GOP congressional effort to nullify the Federal Communications Commission's attempt, under former chairman Tom Wheeler, to regulate broadband privacy.

Advertisers celebrated the GOP win, saying the rules had categorized “innocuous” information as sensitive and in need of opt-in permission to collect and share, while Internet service providers promised they have protected, are protecting and will protect their subscribers' personal data. Here are some answers to questions raised last week by congressional Democrats and others about the official passage of the Congressional Review Act resolution and the official end of the FCC's attempt to write new rules.

Q: So, what is the current status of broadband privacy?

A: The FCC's Oct. 27, 2016, vote to impose new broadband privacy regulations are repealed, and “substantially similar” rules cannot be reimposed by the FCC unless Congress authorizes it in another bill. Just what would qualify as substantially similar is open for debate.

Broadband providers have pledged to abide by voluntary privacy principles in any event, and Comcast has said it will change its privacy policy to make the opt-out option more prominent and reassure its customers that it does not sell customers' individual Web browsing information to third parties. [Click here](#) to check out exactly what industry trade groups representing ISPs have pledged to do to protect broadband privacy. here.

Q: What can ISPs legally do now that the rules have been nullified?

A: They can share a range subscribers' personal information with third parties without users' affirmative permission, including Web browsing and app use history, as well as geolocation data, and can require data sharing as a condition of service.

Q: What obligations are now nullified for ISPs?

A: They no longer must institute government-mandated data security procedures or provide data breach notifications according to a government-imposed schedule.

Q: How long had the rules been in effect?

A: Virtually none of the rules had been in effect in the two years since the FCC assumed broadband privacy authority under the Open Internet order. The FCC last month stayed implementation of the data-security provisions. The opt-in requirements were not scheduled to take effect until the end of the year. One part of the rules — preventing ISPs from making data sharing a quid pro quo for service — had already gone into effect, according to an FCC spokesperson.

Q: Who has authority over broadband privacy?

A: The FCC still has authority over ISP privacy under Title II regulations. The Federal Trade Commission has authority over edge provider privacy, although a court decision has raised questions about whether the FTC can regulate an edge-provider subsidiary of a common carrier — for example, privacy authority over Yahoo as a subsidiary of Verizon would fall into a gray area.

Q: What's next?

A: The FCC is free to draft new privacy rules as long as ISPs are still under Title II and the new rules aren't "substantially like" the old ones. In fact, FCC chairman Ajit Pai and FTC chairwoman Maureen Ohalhausen said last week that they will work together on a new, rational and effective system for protecting consumer privacy.

Congressional Republicans want the FCC to roll back Title II reclassification of ISPs and return broadband privacy to the FTC's purview. Pai and Ohlhausen also ultimately want authority to revert to the FTC. If that happens, congressional Democrats want to give the FTC rulemaking authority so that, if it chose — likely under a future Democratic administration — it could impose its own privacy regulatory framework. The FTC's power is generally confined

to enforcing laws already on the books via filing suit against false and deceptive practices, rather than writing new rules.

Democrats also want to free the FCC to reimpose similar privacy regulations. Sen. Ed Markey (D.-Mass.) and 10 other Democratic senators introduced such a bill last week, but it will almost certainly be a nonstarter in Republican-controlled D.C. [Read more about that effort here.](#)

<http://www.multichannel.com/faq-what-s-broadband-privacy/412048>

Multichannel News

Pai Floats FTC-Enforced Open Internet

4/10/2017 8:00 AM Eastern



By: [John Eggerton](#)

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WASHINGTON — Federal Communications Commission chairman Ajit Pai is looking to fast-track his anticipated rollback of the agency's Title II-based Open Internet order, hitching it to the Federal Trade Commission's enforcement authority over false and deceptive conduct.

Pai met with trade groups representing Internet service providers, including NCTA: The Internet & Television Association, to talk about the plan and encourage ISPs to abide voluntarily by network-neutrality principles.

ISPs have already pledged to hold to a set of broadband privacy principles voluntarily and have said they were generally OK with the baseline Open Internet rules of no blocking, degrading or paid prioritization, but were not OK with them being imposed under a Title II common-carrier regime that could potentially subject those providers to rate regulation.

A source familiar with the meeting said the idea would be for ISPs to add the net-neutrality commitments to their customer terms of service agreements, which would then allow the FTC to enforce violations under its authority to go after unfair and deceptive practices.

Back in 2005, after holding that ISPs were information services not subject to mandatory access, the FCC, also under a Republican chairman, issued general Open Internet principles in a half-page policy statement as a signal to ISPs

about competition and not restricting access. But a court found that those guidelines were unenforceable because they were not codified as rules. But ISPs were not asked to publicly pledge to follow those guidelines, as Pai is reportedly signaling is now the case.

If ISPs do solemnly swear to uphold a set of net-neutrality principles, those companies could be held accountable by the FTC for violating them, the way that agency historically enforced broadband privacy policies before Title II reclassification stripped it of its oversight.

Look for major pushback from congressional Democrats and activist groups, who have argued that voluntary principles, in general, don't cut it.

<http://www.multichannel.com/pai-floats-ftc-enforced-open-internet/412049>

Multichannel News

Wireless War

Can Comcast sustain a new battlefield against cutthroat competitors — for tiny margins? 4/10/2017 8:00 AM Eastern

By: [Mike Farrell](#)

Comcast unveiled its mobility play, dubbed Xfinity Mobile, at a big press event in New York.

Comcast photo

TakeAway

Comcast is banking on its latest mobile product to plant an elusive flag on the wireless customer map.

After several failed attempts to succeed in the one transport medium it has so far failed to conquer — wireless — the cable industry is gearing up for battle, using pricing and its superior broadband products to slice market share from entrenched incumbent providers.

Comcast fired the first shot with the unveiling of its Xfinity Mobile product last week, a 4G and WiFi hybrid that appears to compete primarily on price. But unlike other failed attempts at breaking into the wireless market, Xfinity Mobile appears to be more of a defensive play than an offensive one, geared toward reducing churn and preserving the existing business as much as gaining new customers.

Comcast scored big with consumers with the elegant navigation of its X1 platform, currently available to more than 50% of its footprint and one of the reasons it was able to grow basic video subscribers last year for the first time in a decade. X1 customers are less likely to churn than other video subscribers and use more services.

With Xfinity Mobile, the nation's largest cable operator appears to be extending the X1 concept to the wireless business, offering competitive pricing as well as a few bells and whistles, such as the ability to text customer support and authenticate all of a customer's Xfinity apps in one swoop.

Telsey Advisory Group media analyst Tom Eagan said Xfinity Mobile has some compelling features — he particularly liked the flexible packages and the

ability to text customer service — but he doesn't believe the intention is to offer, at least initially, a state-of-the-art product.

"I don't think what they're offering here is head-and-shoulders above the rest, feature-wise," Eagan said. "But what we've seen is it tends to lower churn. The fact they are committing to the [mobile virtual network operator] means that this is going to be an economically accretive event."

Eagan also doesn't believe, despite the price, that Comcast is starting a price war.

"I don't think this is a major price war — Comcast isn't coming in with a price of \$20 per line," Eagan said. "To me, it's about the benefit of the overall business."

He pointed to Liberty Global's Virgin Media, which has been offering a quad play since 2014. What Virgin Media found is wireless makes the bundle extremely sticky — churn for its quad play was about 0.7%. That compares with 2%-3% and higher for some U.S. cable companies.

"The story makes sense because of what we saw with X1," Eagan said. "I think Comcast customers have a positive experience. That should help [the MSO] in terms of deeper penetration."

DIFFERENCE OF OPINION

To the more skeptical, Xfinity Mobile appears to be what has sunk previous ventures into the space — a cellular phone service whose only differentiator is its name. But in a briefing with analysts last week, Comcast executives tried hard to drive home the point that they indeed had something different on their hands.

What seems to be the most different is the price — Comcast is offering unlimited data plans with no access fees for \$45 per month for its X1 platform customers and \$65 per month for the rest of its base. The wireless offering can only be purchased as part of a Comcast bundle — either voice, video or high-speed data — but customers also can opt for a pay-as-you-go plan that charges \$12 per Gigabyte of data.

"This will be designed to support the core cable business," Comcast Cable CEO Dave Watson said at the launch event in New York last week. "We do have confidence in our ability to compete in a crowded marketplace."

Comcast's presentation was chock full of data. Watson, who spent years in Comcast's former cellular division before becoming chief operating officer in 2010, touted the size of the potential market.

Of all the cable operators in the country, Comcast has the greatest scale — 22.5 million basic video customers, 24.7 million broadband customers and 11.7 million digital telephone subscribers. In all, it has 28.6 million customer relationships. But that scale is dwarfed by the size of Verizon Communications's and AT&T's wireless bases, at 114 million and 110 million customers, respectively. Even No. 3 wireless provider T-Mobile USA has 71.5 million customers and No. 4 Sprint has 59.5 million. From the outset, Comcast will be a distant No. 5 in a five-player market.

Scale is essential in the wireless market: It is the main difference between Verizon's wireless margins of 14% and Sprint's -5.6% margins.

"It's a fixed-cost business," Moody's Investors Service vice president and senior credit officer Mark Stodden said. "So it becomes a money loser if you're operating below a certain scale, because there is a certain standard of network coverage they need to have as table stakes. It is a curious time to get into the wireless business."

At the same time, the wireless players are encroaching on the video business. AT&T purchased DirecTV in 2015 for \$48.7 billion and in December launched its DirecTV Now over-the-top service, utilizing wireline and wireless transport. Last year, the carrier said DirecTV Now customers that were also customers of AT&T Wireless service would not be subject to data limits when watching the video service on its network.

Verizon, which launched its wireline Fios TV service more than a decade ago, introduced a free mobile video service go90 in 2015 (which is currently undergoing an overhaul). And last month it revealed a new corporate structure aimed in part to make it easier to launch its own mobile over-the-top service. The wireless business is clearly going video.

MOBILE INTENTIONS

Mobility is obviously the future, but until recently the cable business was content to provide the content and the fiber backbone that made that possible. While that has changed, merely stapling a wireless service onto an existing bundle hasn't worked before and won't likely work again.

But Stodden added that the growing adoption of mobile video is forcing pay TV distributors to at least look toward wireless platforms.

"You need to assess whether you need to own that mobile distribution platform to continue to play in that space," Stodden said. While that could

eventually mean buying a wireless carrier, he believes the safest route is an MVNO.

“Purchasing a wireless company could be potentially damaging in some areas because there would be areas where they would be wireless-only,” Stodden said. “Those would be money-losing areas. Within their wireline footprint they could have a pretty good cost structure because they have a lot of network capacity and they have a very dense footprint.

The MVNO architecture gives them a lot of flexibility to target only their wireline footprint.” Other cable operators’ plans for wireless ventures remain uncertain. Charter Communications activated its Verizon MVNO last year and has said it will release a product sometime next year. Chairman and CEO Tom Rutledge has kept the company’s wireless plans close to the vest, but he has hinted that the Stamford, Conn.-based operator will lean more toward 5G.

Charter had no comment on Comcast’s Xfinity Mobile plans.

“We have no additional information regarding our wireless plans at this time,” Charter said in a statement.

Xfinity Mobile is Comcast’s cautious approach to the wireless business, Pivotal Research Group CEO and senior media & communications analyst Jeff Wlodarczak said.

“They are dipping their toes in the water and seem to be taking a go-slow approach,” Wlodarczak said, adding that the most compelling aspect of the service is its ability to automatically hand off calls and data between its WiFi and 4G LTE networks.

And though Comcast likely can build a formidable wireless business, he said, Wlodarczak doesn’t see any cause for the bigger players to panic just yet.

“Maybe five years from now you can have a \$1 billion, low-margin business that helps reduce overall churn,” Wlodarczak said. “I don’t think the existing wireless players are quaking in their boots from this initial foray.”

UNLIMITED BATTLE FOR SUBS

Over the past several months the top wireless players have upped the ante in their own battles for customers, with Verizon, AT&T, Sprint and T-Mobile all offering unlimited data plans. Verizon has been particularly aggressive, offering unlimited data for \$45 per month for a four-line family plan service, a free iPhone 7 and offering to buy out the customer’s existing wireless contract. In a research note in February after that Verizon plan was unveiled,

MoffettNathanson principal and senior analyst Craig Moffett estimated that Verizon could potentially spend \$6,000 to acquire a family of five's business. Xfinity Mobile isn't spending nearly that much. Comcast estimated it would spend about \$200 million to \$300 million for the first year of the service and said at the launch event that it would be profitable.

Wireless has been an elusive target for the cable industry for decades. From the PCS (short for Personal Communications Services) partnerships with Sprint in the 1990s, to joint ventures in the 2000s with Sprint again that were supposed to usher in the age of mobile video, cable has spent years and billions of dollars to pair its superior wireline network with wireless. It came close in 2005 with the Pivot joint venture with Sprint that was abandoned in 2008. Later that year, it invested in WiMax pioneer Clearwire, but ended up selling its interests to, you guessed it, Sprint in 2012, some at substantial discounts.

Not every cable wireless venture went bust. Its investments in WiFi have proven to be a major customer retention tool, ironically as a way to offset high wireless data charges from Sprint and other carriers.

Cable appeared to throw in the towel in 2011 when the SpectrumCo consortium, a group of Comcast, Time Warner Cable and Bright House Networks, sold its wireless spectrum licenses to Verizon for \$3.9 billion. That deal included a provision that allowed the parties to activate an MVNO agreement, which Comcast did in October 2016. Charter, which purchased Time Warner Cable and Bright House in May, inherited that MVNO agreement as well.

Comcast and the rest of the cable business are attacking the wireless business at a time when margins are at an all-time low, customer growth has peaked and the two largest players, Verizon and AT&T, have essentially started a price war that will eventually suck in every participant, including cable. Just how long cable would be able to stomach a lengthy price battle — it has vehemently avoided them in the past — is the big question.

Whether this product will be a gateway toward 5G, the newest wireless technology that promises to deliver ultra-fast broadband speeds over short distances, remains to be seen. But for the time being there appears to be some wiggle room, as Comcast will initially test the service with employees and fully roll it out to its footprint by the end of the current quarter. That gives it time to work out any kinks in the service and add any features.

And as is the case with most technological endeavors, there are likely to be kinks. It will be up to Comcast and the rest of the cable industry to make sure those kinks don't end up strangling what could finally be a lucrative wireless opportunity.

<http://www.multichannel.com/wireless-war/412051>

Multichannel News

FCC Gets Back to Business (Data)

Deregulatory approach is a net gain for cable providers [4/10/2017](#)

8:00 AM Eastern

By: [John Eggerton](#)

FCC chair Ajit Pai

TakeAway

FCC deregulation of business data services could help cable double its take by 2019.

Washington — Federal Communications Commission chairman Ajit Pai is proposing major deregulation of broadband business data services (BDS) — such as credit card readers, ATMs and institutional hookups — and that’s good news for cable ISPs looking to get a bigger piece of that business without government restrictions.

While former FCC chairman Tom Wheeler’s proposal initially imposed potential new rate regulations on cable Internet-service providers and reimposed them on incumbent providers, Pai mostly sees a booming, competitive business in business broadband.

“The extensive record compiled by the commission’s excellent staff shows substantial and growing competition in many areas of the country, thanks to new market entrants like cable companies,” Pai said in a blog post.

Pai is extending his deregulatory view to that marketplace with a proposed report and order he plans to vote on at the April meeting.

‘VIGOROUS’ MARKET

Generally, the new takeaway from that proposal is that competition for most business broadband services is “robust and vigorous” and legacy regulations are “more likely to impede the introduction of new services and raise prices than to benefit consumers.”

That’s in contrast to the Wheeler proposal, which was predicated on the assumption that incumbent providers were levying “artificially high prices

being charged to small businesses, schools, libraries and, ultimately, consumers.”

Scott Cleland, chairman of the ISP-backed NetCompetition, said, “Everything the Pai FCC has signaled so far is much less regulation of the BDS market not more, and that is very good news for more competitive infrastructure investment.”

Cable is recognized as a major force in the order, a dramatic change in the market over the past decade. “Cable providers have emerged as formidable competitors in this market,” citing stats from MoffettNathanson principal and senior analyst Craig Moffett that cable’s annual BDS growth rate has been 20% over the past few years, as it takes on the incumbents and competitive local-exchange carriers.

That translated to a \$12 billion piece of the BDS market in 2015, said the FCC, with a projection for that share to double by 2019.

Cable operators, including NCTA: The Internet & Television Association, had pushed the FCC this time around to clarify that some broadband business services are private carriage not subject to the requirements of Title II of the Communications Act, such as “just and reasonable” rate regulation.

The order delivers that clarification, or at least it proposes to do so, confirming that cable operators can offer BDS service as a private carriage service not subject to Title II regulations. That would allow smaller operators that might not typically offer BDS to provide one-off offerings for specific customers. Cable operators had sought that flexibility under the Wheeler proposal, but the idea did not get traction.

The FCC also concluded that having a competitor “nearby” is sufficient to qualify a market as competitive or, as the order puts it: “Traditional and nontraditional providers of business data services constrain an incumbent’s pricing outside of immediate geographies used to describe market concentration” in the Wheeler proposal.

The order cites cable as such a competitor, using as an example a cable company with “nearby” fiber nodes and the ability to provide Ethernet service over either fiber or hybrid fiber coax.

While the thrust of the order is to deregulate the price cap on incumbent carriers such as AT&T and Verizon Communications, a deregulatory tide lifts all boats.

At first blush, it might appear to be an advantage to have your competitors reregulated. A cable executive speaking on background, though, said that subjecting competitors to rate regulation is frequently “not a good thing.” For instance, he suggested, were the FCC to cap rates at cost for an MSO’s ILEC competitor, cable operators would be forced to compete at that capped price. Thus, the free market of rates Pai is aiming for is preferable to self-regulating at a competitor’s level.

Being able to provide BDS as a non-common carrier service is one advantage, as is not subjecting cable operators to a new category of rate regulations should they invest to compete against the ILECs.

CLEC PUSHBACK

INCOMPAS, which represents the competitive telecoms that backed Wheeler’s regulatory approach to ILECs, was pushing back last week, looking for proof of the FCC’s assertion that most markets (92%) were sufficiently competitive to preclude price regulations to prevent monopoly and duopoly pricing.

Invoking the transparency chairman Pai has been pushing, INCOMPAS called on the FCC to release that information before the April 20 vote.

“It is critical to a thoughtful and reasoned consideration of this order to be able to assess exactly what that means, and how many small and medium-sized businesses and critical community institutions could face dramatic price hikes,” INCOMPAS said.

SIDEBAR: Tale of the Tape

According to an FCC summary, the agency’s new business data order, scheduled for a vote April 20, would:

- “Confirm that certain competitive offerings constitute private carriage.”
- “Find that competition for lower-speed services (DS1s and DS3s) is robust in some, but not all, counties, and apply a competitive market test to determine where actual and potential competition is likely to constrain prices and lead to additional investment.”
- “In areas with sufficient competition, modernize rules to facilitate additional infrastructure investment and next-generation services by ending tariffing and other legacy pricing regulations.”
- “In areas without sufficient competition, maintain price caps ...”
- “Grant carriers additional flexibility to offer discounts in such areas to schools, libraries, rural healthcare clinics, and other special access customers.”

■ “Ensure continued Commission oversight by prohibiting the use of agreements that would bar disclosure of contract terms to the FCC going forward.”

— *John Eggerton*

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