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Cable mogul fears tech giants will keep stealing eyeballs

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philly.com
Will Philly (not Cleveland) be the crazy convention?

Watching the cable industry, led by its chief lobbyist and sympathetic Republican FCC commissioners, wail about what they're calling the "**relentless government assault**" on their business at INTX this week, I was reminded of the unwitting driver who asks the small-town sheriff why he was just pulled over.

You've seen this in a few movies. "Your tail light is out," says the billy club-wielding law man, behind his austere shiny sunglasses. "No it's not," the hapless passer-through responds. "Now it is," says the cop, shattering the light with his club.

The way FCC commissioners Ajit Pai and Michael O'Rielly describe it, the cable industry is driving the speed limit and signaling just fine, but agency Chairman Tom Wheeler has already decided to haul the industry into the county jail anyway, with his proposals to "unlock" pay-TV set-tops to third-party operators, regulate how ISPs handle consumer privacy and set rates MSOs charge businesses for special access.

"It's sentencing first, verdict later," a dissonant Pai told a partisan crowd, while appearing at a rare gathering of the four FCC commissioners on the INTX stage Tuesday. Despite an outcry from Washington and Hollywood, O'Rielly said Wheeler **has already decided** to put his controversial proposal to regulate the pay-TV set-top business up for a commission vote as it currently stands.

"I believe it's already done — it's cooked," O'Rielly said "At the end of the day, this proposal put forth by the Chairman is what's going to be voted on. I predict it will happen in October." He called the proposal "garbage" that needs to be "thrown out," eliciting probably as loud an applause that the lightly filled Boston Convention Center could muster, with attendance at the National Cable Telecommunications Association's signature trade show certainly well below the projected 8,000, which would make it flat with last year's diminished event.

The official catch phrase of this year's INTX was "disruption," but "regulation" was really the theme for an industry that seemed to be — in many product announcements and presentations — trying hard to prove that it was being innovative, mostly in its approach to set-tops.

Comcast, for example, showed off its new system for building X1 functionality natively into devices like Samsung TVs and Roku OTT set tops. When Comcast Chairman and

CEO Brian Roberts did hold up a new set-top at the company's Monday-afternoon INTX presser, it was the tiny, DVR-less, HDR-capable Xi5. The message: The set-top may not be gone, but it's presence — and the need to regulate it — is shrinking away. A Comcast exec even told me that the company might sell the Xi5 at retail.

Indeed, a number of the CPE devices on display at INTX — such as WOW's new TiVo-powered IP/QAM hybrid client — aren't the bulky kind of DVR box you necessarily think about when you hear Wheeler say consumers are paying, on average $231 a month to lease a set-top. So what's Sheriff Wheeler's beef with cable?

The boogeyman on everyone's lips is Google. At INTX, I heard time and time again from high-level cable operatives that on issues such as leased set-tops and special access, Google has the President's ear — and by extension, Wheeler's ear. "I think the Commission and the White House have worked very closely with Google," said Matthew Polka, President and CEO of the American Cable Association. Polka, who represents the regulatory interests of the smaller side of the industry, said he can't remember a time in all the year's he's been coming to the erstwhile "Cable Show" when the ACA's and the NCTA's agendas have been in such lock step.

Wheeler, Polka told me, earnestly believes his recent proposals will be helpful to consumers, "and he's trying to work with companies like Google to accomplish those aims." "But what's interesting to me," Polka added, "is the perception that, from a regulatory perspective, just because Google is newer, or maybe they're bigger or maybe they're perceived to be cooler, that they're more innovative and our industry is not." Think of Google as the "Boss Hogg" in our small-town lawman scenario.

The FCC Chairman may have high-reaching goals, Polka added, but he has been "sold a bill of goods" by Google in trying to reach for them. "Google wants the data from TV so that they can impose their own guide, their own advertisements, and they care less about privacy concerns, copyright concerns, negotiating for terms of carriage," Polka said.

So what does Wheeler want out of these proposals that seem to favor Silicon Valley and make little sense? Defending himself to a sparse, depleted crowd of cable industry pros in the waning hours of INTX Wednesday, Wheeler did not go deep, saying only that his proposals were only about re-establishing competition and innovation in an industry that once grew up on such things.

Indeed, Wheeler went into no specifics at all. And maybe it's a waste of time for the cable industry to work so hard getting into them, too. MSOs can show him all the app-based delivery systems they want. The broader issue is that the cable industry is passing through Wheeler's county in unique position to absolutely control both residential and commercial broadband in the decades to come. The reasons Wheeler wants to haul the business in for regulation matter less at this point than the fact that he's absolutely determined to do so, incoherent surface reasoning or no.

"He wants to reach out further into the businesses of ISPs to be able to regulate them, whether its privacy, whether it's through set-top boxes, whether it's through Title II, or through special access," Polka said, providing perhaps the clearest explanation of all of this I've heard.

Hey Brian, Tom and Patrick: Your tail lights are out. – ***Fierce Cable***

In a too-rare instance of fiscal restraint and good sense, the California state Legislature poured cold water over a boondoggle high-speed Internet program.

Assembly Bill 1758 would have extended the program for six more years and authorized the California Public Utilities Commission to impose an additional $350 million in surcharge fees on consumers' telecommunications services (see the charges on your phone bill for the California Advanced Services Fund, or CASF).

But author Assemblyman Mark Stone, D-Monterey Bay, pulled the bill in the face of opposition. Assemblyman Mike Gatto, D-Los Angeles, who chairs the Assembly Utilities and Commerce Committee, has characterized the program as a boondoggle that serves politically connected special interests without providing much added service. Moreover, he noted that the program still has $100 million in unspent funds. "The California Public Utilities Commission approved a number of expensive projects under the pre-existing program, including many costing $20,000 per household, and another at $89,000 per household," Mr. Gatto recently wrote for the Sacramento Bee. "As one observer wryly noted, the state could have bought these households a James Bond-esque satellite connection for $200."

This is largely because the "digital divide" is not so much a canyon as a dry creek bed. According to BroadbandNow, whose website allows users to search and compare broadband service plans in their area, California is one of the more "connected" states in the nation, ranking 11th. In fact, 93.8 percent of Californians have access to wired broadband, as defined by the Federal Communications Commission. In addition, 99.7 percent of Californians have access to mobile broadband service.

High-speed Internet is a service and a convenience, not a fundamental right. It is not, and should not, be an entitlement. Moreover, it is already available in libraries, Internet cafes and businesses that offer free WiFi access. In more remote, rural areas, people must factor in the lack of infrastructure, inconvenience in obtaining goods and services and other trade-offs with the benefits of rural living. They should not expect urban residents to subsidize their decisions through gifts of public monies for high-speed Internet service and other luxuries. – ***Orange County (CA) Register* editorial**

It's been nearly three years since Helyx Chase requested Verizon FiOS and it's still not available in her West Philly apartment. When she realized it wasn't coming anytime soon, she said she had no choice but to sign up for Comcast. Comcast was twice as expensive but much faster than her Verizon DSL service.

"Waiting for FiOS wasn't a viable option," said Chase, a 26-year-old former freelance video editor who now works as Media Mobilizing Project's tech director. (Media Mobilizing Project is organizing around this issue, one that executive director Bryan Mercer said is important because consumers should have options when it comes to internet service.)

Chase's situation isn't unique. **In the last week**, the city has received more than 500 comments from Philadelphians who say they haven't been able to get access to Verizon FiOS, according to city CIO Charlie Brennan. "We never thought we would get that many," Brennan said.

The city is currently investigating if Verizon made good on its 2009 franchise agreement to provide FiOS access to 100 percent of the city by the end of February, barring some exceptions, like permitting issues and problems getting into apartment complexes. Those exceptions are crucial, Brennan said, because they could explain all 500 comments the city received about FiOS delays. But they might not. Brennan said it's still soon to tell.

The city is still collecting public comments about FiOS — **you can submit yours here** — and will do so for the next two weeks. If the city finds that Verizon did not fulfill its promise, the company could have to pay up to $2.6 million in penalties, said city spokesman Mike Dunn, adding that as of last summer, the city confirmed that Verizon had completed 85 percent of its buildout.

Verizon spokesman John O'Malley said that Verizon believes it has completed the buildout and continues to work with the city to verify that. "We welcome any input from the city and will work with the city to address any feedback they receive from residents," O'Malley wrote in an email.

The city's investigation has been informed by New York City, **which, according to a June 2015 report**, found that Verizon did not complete a full buildout. "We do not want this to happen in Philadelphia," Councilman Bobby Henon said during a **rowdy hearing filled with striking Verizon workers** on April 29.

The city is working with consultant CBG Communications to audit Verizon's buildout (CBG is the same consultant that worked on the city's Comcast franchise agreement negotiations), but there is one factor that's standing in the way of the investigation: Verizon's Philadelphia workers — members of Communications Workers of America (CWA) Local 13000 — have been on strike for more than a month now. Verizon needs its workers to do field tests. "We're kind of stuck here," Brennan said.

This was a point that was made clear at the April 29 City Council hearing, and one that the striking workers seemed to revel in. They yelled and cheered every time the strike was brought up as getting in the way of the city's audit. CWA also hired Media Mobilizing Project to get the word out to consumers about Verizon's agreement to provide FiOS access to 100 percent of Philadelphia by the end of February, MMP policy director Hannah Sassaman said.

In the meantime, Brennan said the city is finding its own ways to verify Verizon's buildout, like using the public feedback website and working with the city's Streets Department to verify the permitting exceptions that Verizon claims. "We have to verify what Verizon is telling us," Brennan said. "Verizon is claiming an awful lot of exceptions here and that takes a while to cross reference." – ***Technically Philly***

When Time Warner Cable Chief Executive Rob Marcus took the helm in late 2013, pressure was mounting on all sides: Charter Communications Inc. was belittling his management abilities to investors amid takeover approaches, and Time Warner Cable was bleeding subscribers after a bruising battle with CBS Corp.

Despite Time Warner Cable's operational struggles at the time, Mr. Marcus maneuvered the company through a turnaround over the past few years, even amid the turmoil of a failed merger with Comcast Corp. His efforts culminated in an approximately $60 billion sale to Charter that closed Wednesday, richly rewarding shareholders who had been with the cable company since its 2009 spinoff from Time Warner Inc.

Across the board, cable companies are now doing a better job of holding their own against rival phone and satellite companies, winning video customers and bolstering their broadband businesses. Last year, Time Warner Cable added cable television subscribers for the first time in nearly a decade, bucking the cord-cutting trend.

But for the newly combined company that wraps together Charter, Time Warner Cable and Bright House Networks, there are still choppy waters ahead, including a massive integration of the three companies and competition from "skinny bundle" online video services and TV networks offering their channels directly to consumers over the Internet.

In an interview at the cable industry's annual trade show during his final days as CEO, Mr. Marcus said he thinks that skinny TV bundles and online video services will only make cable operators better and more innovative and won't kill the big bundle for several years to come. But he said that as TV networks like HBO offer their services direct to consumers, "it is inevitable that will have an impact on distribution through the traditional channels."

When he exits at the end of May, Mr. Marcus will be getting a payout of roughly $90 million, which a spokesman says "largely consists of equity awards earned over the last several years, reflecting the increase in stock price benefiting all shareholders." Looking back on his tenure as CEO, Mr. Marcus said he started by implementing a sweeping change in the company's culture to focus on a single goal: "everything you buy should work."

Part of what made that tough was that he had been part of the prior management team that hadn't made customer service the top priority. "When you come from the outside, you could say, 'The previous guys were idiots, here's how we are going to change,'" he said. "It's not as if I…could disavow responsibility." Mr. Marcus said there was also a sense in executive ranks before he took over as CEO that all decisions had to go through top bosses, or risk being reversed. "People lost the feeling that they were empowered and at the same time lost the feeling that they were responsible," he said. "It was sort of a vicious circle."

In a September 2013 meeting, Mr. Marcus told senior executives that he wanted them to focus on reliability over "whiz-bang" products. That meant investing in the network and customer service to reduce the overload of angry customer phone calls and repeat service calls—instead of working on the latest and greatest set-top box or program guide. In years past, he said there were times when Time Warner Cable "created our own mess" by rolling out new program guides that caused customer disruption. "It doesn't matter if you have great products if you haven't first ensured that stuff is working the way it's supposed to work," Mr. Marcus said. "No one wants a fancy cool new device if their TV is black."

Mr. Marcus also hired a whole bench of new senior executives, including the well-regarded cable operating executive Dinni Jain. The company boosted its capital spending from $3.2 billion in 2013 to $4.4 billion in 2015, an unusual move for a company in the throes of being sold. That paid off when the deal with Comcast fell apart last year amid regulatory opposition, and it was able to bargain a much higher price out of Charter.

Now, Mr. Marcus says 99% of TWC technicians arrive on time, within one-hour appointment windows—up from a "low 90s" percentage before, with an even longer window of time. Of course, there's still room for improvement, he said. Time Warner Cable has for years posted low customer satisfaction scores. (Charter plans to eventually retire the Time Warner Cable name and replace it with "Spectrum" brand products.)

It also helped that Time Warner Cable implemented a robust compensation program to incentivize senior executives to keep doing their best amid takeover turmoil. During Charter's initial hostile takeover attempt, "it got pretty nasty," Mr. Marcus said. "It's a remarkable thing that this 50,000-plus person team rallied the way they did in spite of all the things that were going on." – ***Wall Street Journal***

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