WEDNESDAY, MAY 10, 2023 VOLUME 34 | NO.087

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Money Blues: Haste to Close Digital Divide Could Be Costly

Congress has appropriated billions of dollars for broadband infrastructure, but some are warning that moving too quickly could lead to huge amounts of waste. President *Biden* has set a goal of universal American access to broadband by 2030, but witnesses at a House Oversight Subcommittee hearing Wednesday warned that a push for speed without planning could prove to be a disaster.

"I think, right off the bat, we have a problem with the aggressiveness with which we will spend it. It's always easy, I can do things more quickly, but it costs more to do it. I suspect about 20% of the money will be lost in the speed with which this program will be implemented," *George Ford*, Chief Economist for the **Phoenix Center for Advanced Legal and Economic Public Policy Studies**, said. "There are ways we can think about increasing the productivity of the spending, and while I think that some of this may have been considered, there's a lot of evidence that it's not being taken very seriously."

The first step toward the goal of maximizing the funding, in Ford's eyes, is to establish a clearly stated goal or mission statement when it comes to broadband deployment for the federal government. A similar recommendation has been made by the **Government Accountability Office**. It released a report last May that recommended the White House develop a national broadband strategy. That strategy would aim to identify overall goals for all federal programs developed to close the digital divide, track program performance and progress, align program rules and identify individual agency goals and responsibilities. The White House has yet to publish such a strategy.

That North Star, once lit, would hopefully also pave the way for the adoption of more universal definitions and program requirements across federal agencies. There are at least 133 funding programs administered across 15 agencies, and that fragmentation opens the door not only for duplicative support and program overlap, but also for confusion for potential applicants. *Andrew Von Ah*, Director of Physical Infrastructure for the Government Accountability Office, predicted that will only continue as **NTIA** prepares for the next steps of the BEAD program. Funding will be distributed to each of the states based on proposals sent by the states, and each state will have its own set of rules for how it will award projects to applicants.

"You have different definitions of what rural is, even within the Department of Agriculture's six or seven different programs," Von Ah said. "You may be eligible for this program based on population, but not for this program, and so it's very difficult for potential recipients to sort of weed through all of these different programs and figure out what's most appropriate for them."

In addition to the national broadband strategy, the **National Digital Inclusion Alliance** has asked the White House to debut a digital inclusion strategy that would strengthen and support efforts within local and state governments as well as those in territories and Tribal communities to expand digital skills. It would also designate a coordinating body to facilitate digital inclusion work across federal agencies and watch over the creation of public-private partnerships to support local digital inclusion programs.

While program coordination is a big focus, discussion was also strong around the possibility of consolidating some of the programs that share similar goals in an effort to reduce some of the friction that exists today. Ford said it may make sense to fuse together the **FCC**'s Lifeline and Affordable Connectivity programs due to their shared general target of helping low-income households afford broadband service.

"Why we have two of these programs is unclear. It probably makes sense to consolidate those two. I would not consolidate the two within the Universal Service Program because it's got problems and needs a reform and getting that money out of it may postpone the need for reform," he said.

Much of the hearing focused on the deployment piece of the digital divide, but **National Digital Inclusion Alliance** Executive Director *Angela Siefer* took the opportunity to argue for the continuance of the ACP. Funding for the program is scheduled to run out in early 2024, and folks across the broadband ecosystem are banding together to argue for the program's importance.

In a blog post posted Wednesday, **Comcast** EVP *Broderick Johnson* said the loss of ACP support couldn't come at a worse time for the more than 17 million households currently signed up for the subsidy program.

"It's crucial to the economic success of families from South Carolina to Michigan and Tennessee to New Mexico that policymakers work together to fund broadband programs like the ACP," Johnson wrote. "It's time for a bipartisan Congress and the administration to once again act and solve the affordability question once and for all before it's too late."

....

DISNEY READYING DISNEY+, HULU ONE-APP EXPERIENCE

Disney is gearing up to launch a one app experience domestically that will incorporate **Hulu** content via **Disney+**, and in a move straight out of **Warner Bros. Discovery**'s playbook, it's preparing to remove "certain content" from the streaming business. As a result, it expects to take a $1.5-$1.8 billion charge, primarily in 3Q. "When we launched the service—let me remind everyone it was only three and a half years ago…the goal was global subs and we wanted to flood the so-called digital shelves with as much content as possible to achieve obviously as much sub growth as possible," Disney CEO *Bob Iger* said during Wednesday's after-the-bell 2Q23 earnings call. "Now as we grow the business in terms of the global footprint, we realize that we made a lot of content that is not necessarily driving sub growth and we're getting much more surgical about what it is we make. So, as we look to reduce content spend, we're looking to reduce it in a way that should not have any impact at all on subs." Iger didn't elaborate on what will happen with negotiations with **Comcast** over Hulu, but stressed that Disney+ with general entertainment content is "a very strong combination" for subscribers and advertisers. There are also plans to increase the price for the ad-free Disney+ tier again, with management saying the loss of subs from a recent substantial increase was relatively small. It currently retails for $10.99/month, with Disney raising the price $3/month at the end of 2022. "We've got to widen the delta between the ad-free service and the ad-supported service because we clearly would like to drive more subs to the ad supported service," Iger said, predicting a substantial growth in digital advertising in this upfront. During 2Q23, Disney+ lost 4 million subs globally and 300,000 domestically. **ESPN+** added 400,000 subs, while Hulu SVOD added 200,000. DTC revenues for the quarter increased 12% to $5.5 billion and operating loss decreased $0.2 billion to $0.7 billion. On the linear side, revenues for the quarter decreased 7% to $6.6 billion and operating income decreased 35% to $1.8 billion. As for Disney's cost-cutting measures, which include an estimated 7,000 job cuts, Iger said the company is on track to meet or exceed its $5.5 billion savings target.

The WHO and the WHY

CFX's spotlight on recent new hires & promotions

DAVID
Owens
SVP, MOBILE PRODUCT
CHARTER

3 THINGS TO KNOW

- The former Sprint executive was hired by Charter to oversee its mobile products. He'll lead the way for Spectrum Mobile and help create and execute the company's mobile product strategy and product management. David will also play a key role in supplier relationships and forging new partnerships.
- He's a communications veteran with more than 30 years of experience. He joins Charter after spending time at Harman International as an SVP, where he led the company's digital transformation solutions—a 7,000-person business unit that provides engineering services. He also was heavily involved in Harman's business development and strategic partnerships.
- David had a variety of responsibilities and leadership roles during his 27-year tenure at Sprint. He developed and launched several innovative mobile products such as WiFi calling in all Sprint postpaid handsets and 2X carrier aggregation, as well as the first-ever phone leasing program. He was also the go-to for Sprint's key supplier relationships, including those with Samsung, Apple and other software partners.

Cablefax Daily (ISSN 1069-6644) is published daily by Access Intelligence, LLC | www.cablefax.com | 301.354.2101 | Editorial Director: Amy Maclean, 301.354.1760, amaclean@accessintel.com | VP/Group Publisher, Cablefax and Cynopsis: Robbie Caploe, 917.974.0640, rcaploe@accessintel.com | Managing Editor: Sara Winegardner, 301.354.1701, swinegardner@accessintel.com | Associate Editor: Noah Ziegler, 301.354.1704, nziegler@accessintel.com | Director of Business Development, Cablefax: Ellen Kamhi, 917.626.5574, ekamhi@accessintel.com | Production Manager: Joann Fato, jfato@accessintel.com | Kerry Smith, Divisional President, Marketing & Media Group, ksmith@accessintel.com | Group Subs/Subscription Questions, Client Services: 301.354.2101, clientservices@accessintel.com | Annual subscription price: $1,899.00/year | Access Intelligence, LLC, 9211 Corporate Blvd., 4th Floor, Rockville, MD 20850

LEAD GENERATOR COMPANIES FINED FOR FAKE FCC COMMENTS

Three companies—**LCX**, **Lead ID** and **Ifficient**—paid $615,000 in penalties and disgorgement for their role in submitting fake public comments to the **FCC**'s 2017 net neutrality proceeding. The majority of those funds went to New York, but $100,000 was directed to the San Diego District Attorney's Office and $21,250 was received by Colorado. According to New York's Office of the Attorney General, the leader of the investigation, stakeholders in the broadband industry engaged commercial lead generators to use advertisers and prizes to encourage consumers to join the campaign. Instead, the majority of those firms fabricated consumer responses and more than 8.5 million fake comments impersonating real individuals were submitted to the agency. LCX and Lead ID independently fabricated responses for 1.5 million customers each. Ifficient took more of an intermediary role, engaging other lead generators to enroll consumers in the campaign. Ifficient gave its client more than 840,000 fake responses that it received from the lead generators it hired.

TEGNA EARNINGS STEADY AS MERGER CLOCK TICKS

TEGNA still isn't holding earnings calls as the clock ticks on its pending acquisition by **Standard General**, but what we are hearing from the company is largely positive. Revenue for 1Q23 was $740 million, down 4% YOY due to the absence of inflated political ad revenue, no Winter Olympics and the Super Bowl not airing on **NBC**. Much of the good news came from subscription revenues, which rose 6% to $414 million on the back of contractual rate increases. Of note, TEGNA stations were also dark for part of 1Q22 on **DISH** as the two fought over retransmission consent.

JUDGE BLOCKS SUNS/MERCURY DEAL

Six days after **Diamond Sports Group** sued the Phoenix Suns and Phoenix Mercury for allegedly breaking their existing local TV deals, a U.S. bankruptcy judge voided the two teams' new deals with **Gray Television** and **Kiswe Mobile**. According to *The Athletic*, the judge ruled the teams violated the rights of Diamond under the U.S. bankruptcy code, adding that Diamond had a contractual right to negotiate a contract extension. The Suns, Mercury and Gray contested that their deal was subject to reaching a resolution on the right of first refusal, but the judge "noted that such language was not included in the first communications the Suns sent to Diamond on April 19." Now the two sides will enter a dispute resolution process, meaning the deal could be brought back to life if the franchises and Gray win that ruling.

FUBO'S CTV MEASUREMENT PLAY

Fubo is partnering with **iSpot.tv** to enhance CTV measurement across the vMVPD's video advertising inventory. Fubo will now be able to quantify the number of ad impressions delivered to incremental households not reached on linear TV and personal-level audience estimates for co-viewing. That'll allow for brands and agencies to gain more transparency into ad campaign outcomes and audience reach. Approximately 92% of Fubo content is watched on a large-screen CTV.

A FRNDLY BOOST

Frndly TV is adding three enhancements to help refine content discovery. Starting today, users will see a "My Stuff" tab that replaced the previous "My Recordings" tab. This combines shows that are currently being watched by the user with recorded shows and the also new "Favorites" tab. Users can find their favorites under the My Stuff tab, which allows them to automatically add programming to a personalized queue. Lastly, Frndly is rolling out a "TV Series Page." This lets viewers find libraries of individual programs regardless of where or when they originally aired on the platform.

VERIZON GAINS AN EDGE

Verizon is joining forces with **ESPN** Edge and the **NHL** to make The Drop AR Mini Games. Designed to complement ESPN's digital program "The Drop," the games leverage Verizon's technology and network with ESPN Edge's sports media enhancements. They come with two experiences—Puck Pong and Puck Pursuit—and are available to all on Android and Apple devices. Users can also watch content from The Drop and play the game simultaneously.

CARRIAGE

Meet the new player in the FAST market: **DraftKings**. The sports betting company launched the **DraftKings Network** on **Samsung TV Plus**, making it the first U.S. sportsbook to launch a 24/7 channel on the platform. Programming will feature "The Dan Le Batard Show with Stugotz," "Follow the Money with Mitch Moss and Pauly Howard" and "Golic and Smetty." – The LGBTQ+ streamer **OUTtv** launched a channel on **Prime Video** in the U.S. It's an extension of OUTtv's existing deal with Prime Video in Australia and Canada and will run at $3.99/month following a free seven-day trial.

RATINGS

The 2023 NCAA Beach Volleyball Championship match averaged 380,000 viewers on **ESPN**, up 208% YOY. That makes it the most viewed since the last time the event was on the flagship (2019). The full tournament saw a 100% increase in viewership and had 119 million minutes consumed. – **Hallmark Channel**'s spring programming event helped it be the most-watched entertainment cable network in prime this past weekend. "Spring Into Love" premiered seven original movies and lifted Hallmark to the No. 1 entertainment cable program every Saturday for seven consecutive weeks among households, W18+, P18+ and total viewers.

Think about that for a minute...

The Copyright Dilemma

Commentary by Steve Effros

It took only three hours for the jury to come back with a verdict. When that happens you know that one side in a court challenge has made a very convincing case. No, I'm not talking about the recent decision regarding sexual battery… that jury took less than three hours. I'm talking about the claim that Ed Sheeran, an internationally known British performer who has sold over 150 million albums had violated the copyright claims of one of Marvin Gayes' collaborators on Gayes' famous hit "Let's Get It On." The claim was that some of the chord progressions in Sheeran's hit "Thinking Out Loud" violated the "unique" use of those chord progressions in the Gaye classic.

The entire entertainment community, and particularly musicians, were watching this case and holding their collective breath. The drama, it would appear, actually goes back to around 2015 when the descendants of Ed Townsend, Marvin Gaye's co-writer, won another court case and were awarded over $5 million for alleged copyright infringement. That case charged that Robin Thicke and Pharrell Williams's song "Blurred Lines" ripped off Gaye's "Got to Give It Up."

As Sheeran commented after winning the case in New York this past week, these battles apparently just go with the territory. When you're one of the most successful artists in the field, with four Grammys and ranked as one of the world's most successful performers, as he put it: "When they say there's a hit, there's a writ—it's true. Every single hit." The challenge this time wasn't for just a $5 million dollar return, the litigants said they were seeking a $100 million award.

Sheeran played his guitar on the stand. He demonstrated that the fundamental musical chords that were being challenged were common. "There's four chords that get used in pop songs, and there's however many notes—eight notes or whatever—and there's 60,000 songs released every single day." The odds that those chords would show up in many different songs is a mathematical certainty, Sheeran said.

Of course he's right, and in this case the jury agreed rather quickly. Musical artists can now breathe a little easier. Just imagine if someone could actually "copyright" a chord progression in music! Luckily, and here's where we get to the significance of "AI" and large database technology in all this, challenges such as this one are likely to fail a lot faster from now on.

Consider a case like this in the AI future, when not only language but visual and musical data is all available and searchable in a matter of seconds! We're almost at that point, but not quite. It won't be long before the large data bases include all of that material if some of them don't already. Just enter a chord progression and have the computer search for that identical progression in all other music. My guess is that starting back at Gregorian Chant (which is mainly made up of chord progressions) and before, the "Marvin Gaye / Ed Townsend progression" would show up. End of legal gambit.

What all this points to, in my opinion, is two important things; first, that copyright law is going to have to change. We have no guideposts currently for whether a computer database "learning" the style of a given author, poet or musician, or an entire "school" of them, is somehow violating their rights or simply doing what other artists, poets and musicians have done for millenia by studying and being influenced by the prior "masters" to improve their own creations.

And second, that while we can all think of the potential downsides of "AI," there are plenty of upsides as well. Finding those chords, or recognizing a tumor based on reviews of millions of other mammograms isn't a dilemma, it's the future.

Steve

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

(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry. His views do not necessarily reflect the views of Cablefax.)