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Today's News

PRIVACY SOLUTIONS require simplicity, trust, technologies providing users with choices, say Silicon Valley business researchers. T-Mobile tests smart unified-communications system to screen messages, adjust use of content. (P. 1)

MSOs EMBRACE IP VIDEO push. Comcast cites iPad debut, TWC gears up for reported IPTV trial with Microsoft. (P. 2)

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CAPITOL HILL: FTC chairman to make case for more funding at Senate Appropriations hearing. (P. 3)

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INTERNATIONAL: Article 29 regulators fault Facebook for privacy changes they say violate November agreement. (P. 5)

Privacy Control Remains Vexing but Can Work Even in Toughest Cases — Company Researchers

STANFORD, Calif. — Providing users control over personal information remains a knotty problem, but they'll knowingly share the most intimate data in a setting of detailed opt in, personal trust and the right expected payoffs, Silicon Valley business researchers said Friday. T-Mobile is running a trial of an automated system for controlling the intrusiveness of Internet, voice and other communications in a unified technology, as well as what the recipients of information are allowed to do with it, a consultant involved in the work said at a workshop of the Media X research center on technology and society at Stanford University.

Community sites like CureTogether and DIYGenomics — in which people share detailed information about their medical symptoms and genetics to aid research and learn and share experience about the effectiveness of treatments — show that Web 2.0 can create innovation without infringing privacy, said Melanie Swan of the MS Futures Group, who's involved with both communities. Participants take advantage of the wide leeway they're offered in whether and how to identify themselves and how much data to provide, she said.

This new frontier poses tough questions about applying informed consent and other ethical requirements, Swan said. She said she has noticed willingness to share data increase over time, as the value of the networks is seen to outweigh the costs of disclosure, and as the organizers have won increasing personal trust from participants. Concrete advances resulting from the effort will tilt the cost-benefit analysis toward sharing, Swan said.

Survey subjects express serious, varied privacy worries that don't correspond to their sharing online, said designer Marco Paglia of Nokia, who has done in-depth, qualitative research with small numbers of different kinds of technology users. "People have a concern, but they will follow the easiest path," he said. This makes the simplicity of interfaces critical to allowing users control over their information, Paglia said. Facebook's intricate privacy policy and settings are "definitely not very useful," he said.

There are considerable overlaps between the kinds of information that people want to share and those they seek from others, so a "mutuality" principle can be useful in frameworks for sharing, Paglia said. But there's a widespread conflict between people's desire for location-based services and their resistance to sharing location information, he said. There's also a fundamental conflict between the collection and disclosure of information in line with "binary codes" and the fact that "life is fuzzy," Paglia said. "People need to lie" and have other flexibility that clashes with the black-and-white of bits and bytes, he said.

Companies should think of Web 2.0 services along two axes, as social and personal, Paglia said. A service that would be represented as a "fat T," representing broad sharing of deeply personal information, is a bad idea, he said.

T-Mobile's test of a unified-communications product called Remix combines all of a user's electronic communications and account IDs from their "vertical silos," said Ajay Madhok of Amsoft Systems. "The system can infer your social distance" from fellow participants in communications and over time adjust how urgently to notify the user of messages and what rights to convey to a recipient beyond consuming a message once, he said. The technology aims to give a user "choice, privacy and control, so the keys to the kingdom are not everywhere," Madhok said. He said he will post a website that will allow T-Mobile customers to take part in the pilot. — **Louis Trager**

'Love-fest' with Microsoft?

Cable System CTOs At NCTA Show Embrace IP Video

LOS ANGELES — Steering further away from long-time opposition to IPTV, the largest U.S. and Canadian cable operators are now openly embracing IP video technology as the prime way to deliver their growing video offerings to subscribers wherever they may be. Appearing together on a panel at the NCTA show last week, chief technology officers and senior engineering executives of five major North American cable operators confirmed they're all looking to migrate to IP video over the next couple of years. They cited the need to serve the growing array of IP-enabled consumer devices, provide Internet, mobile and non-traditional video fare to customers, and reduce infrastructure and delivery costs.

"We do need to embrace" IP video, said CTO Scott Hatfield of Cox Communications. "The economics of IP are different." Mike LaJoie, CTO of Time Warner Cable, said the basic idea is to deliver all cable services to "the broadest panoply of devices." It's "really about converging all of our services over an IP pipe all the way to the home and making them available wirelessly," he said. "It's less about what's contained in the [IP] packets and more about providing all of our services to any device. It changes the game a lot."

Time Warner Cable is reportedly gearing up for an IP video trial with Microsoft's Mediaroom platform. Under a project called "Longfellow," Time Warner Cable has been reportedly investigating its IP transition strategy for some time. Asked by panel moderator Leslie Ellis about the purported IPTV trial, LaJoie denied that there was any "love-fest going on with Microsoft."

Tony Werner, CTO of Comcast, said IP video technology will enable operators to satisfy growing subscriber demand as they buy more IP-enabled devices, watch more video fare on them and seek to view more Internet video on their home TV sets. Comcast aims to do that at least partly by leveraging its fiber backbone and still-developing content delivery network (CDN). "It's less about IP and more about satisfying the growing demand from consumers," he said. "What I worry about most is that consumer and consumer device sophistication are growing so rapidly. We need to get in lockstep with that." Last month's debut of Apple's iPad crystallized the notion of delivering video to IP-based devices for Comcast, Werner said. "It's really a great device for video con-

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sumption," he said. "There's more video consumed on that device than any other device short of the television We need to have an easy way to get our content to them."

Rogers Communications hasn't firmly decided on its IP video strategy yet, said Dermot O'Carroll, senior vice president of access networks. Rogers expects to adopt IPTV technology soon so that it can deliver video to both home and mobile devices, he said. "We'd like to have the same CDN for all video," he said, "which implies an IP-based CDN."

Although cable operators agree on the need to adopt IPTV, they don't yet agree on how best to do it, with industry opinion split among three different basic options. Some cable engineers lean towards piping video over the cable modem termination system (CMTS) as CMTS port costs drop. Others favor using CMTS "bypass" architectures that pump video signals through the edge QAMs rather than the CMTS. Still others want to install powerful new home gateways that can manage both new IP video services and traditional RF-based video signals.

Comcast, for example, leans towards the CMTS approach. While "all of the above are still viable options," Werner said, his company's "end goal" is to pipe video through the CMTS. Calling this method "more eloquent and more efficient" than the other two approaches, he argued that CMTS port costs are falling rapidly and will "soon" reach parity with other approaches. He predicted that the cost of delivering an hour of MPEG-4 video over an IP network will end up matching the cost of delivering an hour of MPEG-2 video over an RF network.

Time Warner Cable and Suddenlink Communications are among those favoring the home gateway concept. Terry Cordova, CTO of Suddenlink, said this residential IP gateway would enable the cable operator to manage its older cable set-top boxes while deploying IP-based boxes and other new IP video devices. While cable operators are eager to leverage low-cost IPTV set-tops and the other benefits of IP technology, the panelists said the switch-over will not happen overnight. "It won't be a flash-cut," Cordova said. "It will be a transitional period." LaJoie agreed that cable will not do a "hard cut" to IP video. "You'll see MPEG-2 transport boxes in our network for another 10 years — because they will still work," he said. "Some of our customers don't want to get connected to IP. ... It's not interesting to them."

White House

Civil liberties groups met Friday with Howard Schmidt, White House cybersecurity coordinator, following a letter they sent asking how the Einstein 3 network intrusion-prevention system would work, among other concerns. The letter asks how the Department of Homeland Security and National Security Agency define "malicious threats," the legal basis for Einstein 3, how the government will be stopped from accessing "expressive and associational information" that's not evidence of a crime, what protections will apply to sensitive personal information, and how will due process rights be established, among other questions. They asked for the government to apply fair information practices in cybersecurity programs, which should be subject to Freedom of Information Act requests whether performed by government workers or contractors. The programs should come under an "empowered and effective" Privacy & Civil Liberties Oversight Board that monitors both civilian and military cybersecurity activities, they said, alluding to the advisory group whose members' terms lapsed two years ago and who were never replaced (WID March 10 p6). The groups asked for "greater transparency" in cybersecurity decisionmaking, a role for advocacy groups "that rely on the Internet," and legal constraints on acquiring or viewing information in cybersecurity programs. They include the ACLU, Electronic Privacy Information Center, American Library Association, New America Foundation's Open Technology Initiative, Reporters Without Borders, and Liberty Coalition, which includes several right-of-center groups.

Capitol Hill

FTC Chairman Jon Leibowitz will defend the commission's budget request before the Senate Appropriations Financial Services and General Government Subcommittee at a hearing Thursday. It's a delicate time for the

commission, which would get sweeping new powers under the House financial overhaul bill that worry tech trade groups whose companies are overseen by the FTC. Those powers, which would require higher funding, are missing from the Senate's main financial overhaul bill (WID May 5 p5).

The House Oversight Committee plans a hearing Thursday on the General Services Administration's Networx program, the committee said Friday. The hearing was rescheduled from April 29. Scheduled to testify: Martha Johnson, administrator of the General Services Administration; Sanjeev Bhagowalia, the Department of Interior's chief information officer; Don Herring, senior vice president of AT&T Government Solutions; Diana Gowen, senior vice president of Qwest Government Services; Edward Morche, senior vice president of Level 3 Federal; Susan Zeleniak, group president of Verizon Federal; and Bill White, senior vice president of corporate communications for Sprint Nextel.

AT&T stands ready to build consensus for net neutrality legislation, said Tim McKone, executive vice president. The carrier Friday accepted an invitation to industry (WID May 14 p1) by House Communications Subcommittee Chairman Rick Boucher, D-Va. AT&T hopes all broadband providers will work with Congress to dispel uncertainty raised by the prospect of Internet regulation, McKone said. "While we've said that we don't feel that the Communications Act of 1934 is the right vehicle to regulate dynamic 21st century technologies like the Internet, we do feel there are other more effective alternatives to fill the perceived void left by the court decision," McKone said. "That's why we would be supportive of the narrowly-tailored legislative approach outlined by Chairman Boucher and Ranking Member Cliff Stearns," the Republican from Florida.

Agencies

FCC Chairman Julius Genachowski and General Counsel Austin Schlick put much emphasis on the "consensus" that the commission needs to shore up its authority to regulate the Internet, but that avoids the real question, Free State Foundation Senior Fellow Seth Cooper said on the group's blog. "This 'consensus' is an odd sort of thesis-antithesis-synthesis narrative for smoothing over a sudden repudiation of deregulatory policies that have kept the Internet free from regulation," Cooper said. "And in terms of messaging, the consensus mantra was hard to miss." Genachowski's statement announcing his decision on how broadband should be classified used the word consensus nine times and Schlick, 10 times in his legal framework justifying the decision, Cooper said. "Serious observers shouldn't let this curious 'consensus' narrative take their eyes off the ball," he said. "The real question to be decided is whether broadband reclassification under Title II is legally justifiable. In the end, a story-line about a vague and ephemeral claimed 'consensus' won't authoritatively decide that question."

Courts

Nintendo of America (NOA) sued online retailer NXPGame in U.S. District Court in Seattle, alleging its owner, Kevin Niu, sold illegal videogame copiers. NOA investigated a website owned by NXPGame and found that it was selling copiers that enabled consumers to download, play and distribute illegal copies of DS and DSi videogame software, NOA said. After NOA's attorneys sent the defendant "multiple letters" and phoned him, he agreed to stop selling the copiers and closed his website, it said. But he soon launched an identical business at a different website address, and redirected customers who visited his old site to the new one to buy the same products, it said. One of Niu's websites also used Nintendo registered trademarks and violated Nintendo copyrights, NOA said. The suit follows the 2009 *Nintendo v. Chan* case, in which a U.S. District Court in Los Angeles confirmed that game copiers violated the Digital Millennium Copyright Act and are deemed illegal in the U.S., NOA said. Since 2009, Nintendo has supported nearly 1,500 legal actions — including customs seizures, law-enforcement actions and civil proceedings — in more than 20 countries that have "resulted in the confiscation of more than 422,000 videogame copiers," NOA said. It requested unspecified compensatory damages, as well as statutory damages of up to \$150,000 for infringement of each Nintendo copyrighted work, up to \$200,000 for in-

fringement of each Nintendo trademark and up to \$2,500 for each violation of the Digital Millennium Copyright Act. It also asked for a jury trial, preliminary and permanent injunctions, and that the defendant pay all its legal fees, among other things. Niu couldn't be reached for comment on Friday.

International

Europe's Article 29 Working Party of data protection authorities faulted Facebook for "fundamentally" changing its default privacy settings "only days after" it and other social networking companies met with regulators in November. In a joint statement last week the authorities, who had just met in Brussels, said they sent a letter to 20 social networking companies including Facebook that had signed the "Safer Networking Principles for the EU." Facebook's changes violated the group's demand that services have a default setting where access to profile information and users' connections "is limited to self-selected contacts," and in which users make the "explicit choice" to share data with others including search engines. In the letters to companies, the regulators said they should "grant users a maximum of control about which profile data can be accessed by a third party application on a case-by-case basis," adding that companies would violate the law if they used personal data for commercial purposes without the "free and unambiguous consent" of users. Facebook has long maintained, however, that it doesn't share personal data with advertisers, but rather demographic information such as interests for targeting purposes. A broader group of regulators, including some in the Article 29 group, warned Google and Facebook specifically last month that they showed a "pattern" of troubling behavior on user privacy and pledged to work together to pressure companies to adopt "privacy by design" (WID April 21 p1). In a statement, Facebook said it was reviewing the Article 29 letter, which hasn't been publicly released. The company agrees with many points made by the authorities, but not their suggestion that Facebook let users go by "pseudonyms" instead of their real names. "Facebook has always been based on a real name culture, and we fundamentally believe this leads to greater accountability and a safer and more trusted environment for our users." The company has been at the "forefront" in offering its users "granular controls" to customize their settings to share or protect "as much information as they feel comfortable with." Facebook recently introduced such controls for data permissions with third-party applications, it said.

Privacy

Stanford University researchers are working on technology to integrate users' information on their own devices and send them on to data centers encrypted, for unlocking only with a private key, to protect against theft and government intrusion, one of the developers said Friday. A "client-equipment information integration" system would reduce government regulation by cutting into the vulnerable personal information stored in the cloud, changing the need for security and privacy rules, visiting Professor Carl Hewitt said at a workshop of Stanford University's Media X program about technology and society. But he also said the FTC is getting further involved in data privacy and said the "\$64,000 questions" under discussion behind closed doors of Silicon Valley executive offices is whether high tech should embrace regulation by the commission or "should we be like the bankers and oppose it bitterly to the end and have it imposed on us?" The local-integration system would work even with "data going out to Amazon when you're looking at a certain kind of book" and don't want the information spread around, the researcher Hewitt said. Amazon would share the user's interest in protecting the information under the local-integration system because "they don't want your recommendations," valuable information that the company has created, "to be available to Comcast," or whatever other ISP the customer uses, through deep-packet inspection, he said. The proposed technology "won't work at all unless it's completely invisible" to users, Hewitt said. "In other words, you know nothing about it," except that no one can get information without specific action by the user. He said the work could use substantial financial support. — **LT**

Mobile application analytics provider Flurry is requiring developers using the service to sign off on its new Privacy First Initiative governing what features they must include in their applications. Flurry said 28,000 companies have integrated its Analytics and AppCircle products into 40,000 applications for the iPhone, Android, Black-

Berry and J2ME platform, tracking two billion "end user sessions" monthly. It's gone through "months of consultation with customers and partners" and reviewed privacy standards in other industries to devise the privacy rules, said CEO Simon Khalaf. "Nothing is done without the consumer's knowledge, or without the chance for a consumer to stop data collection." The requirements and features include: "Simple, readable terms of service" that must be accessible before the application is installed and launched; an opt-out switch accessible from the application settings; a "data deletion button" that erases data stored by Flurry for that device; an information button on targeted ads using AppCircle, explaining what data are used for targeting and providing opt-out and delete options; a "clear" retention policy that deletes all "raw" data after a period of time; and "geographic data obfuscation," meaning that geographic data will be reduced in specificity so that only a user's metropolitan area can be identified. The features are available on Flurry products for all platforms but the iPhone, where they will become available this summer, Flurry said.

Security

Facebook users worried about their accounts getting hacked can sign up for a new login notification feature that tells them, by text or e-mail, when a new device accesses their account, the company said in a blog post late Thursday. Users can approve devices they commonly use to log in and get notices when a new device logs in, after which they're prompted to approve the new device, said Lev Popov, a software engineer on the company's site integrity team. Facebook is also opening a new system to block "suspicious login" attempts from "unusual" devices, by asking the user to answer another verification question to get in, such as what is his or her birthdate. "We've already seen some great results" from testing the feature, Popov said. "We'll only ask you to prove your identity on the rare occasion that we notice something different." The changes preceded what was billed in reports as an "all hands" meeting at Facebook Thursday night to discuss the controversy over privacy changes including "instant personalization" that had upset users and regulators. (See separate report in this issue.) A spokesman told us staff had a "productive discussion about the latest product announcements and how we can work on providing the best experiences for users and developers."

Industry Notes

Google will stop selling its Nexus One smartphone through its Web store as it increases the availability of the device in retail channels, wrote Andy Rubin, head of the company's Android efforts on the Official Google Blog. The phone will be available to consumers through Google's wireless partners' existing retail channels. The Web store would morph into an "online store window" where Google could showcase phones built with its Android software. While the global adoption of the Android platform has exceeded expectations, the Web store has not, Rubin said. It's remained a niche channel for early adopters, he added.

Internet People

Direct Marketing Association board names **Glenn Eisen**, Guthy-Renker, treasurer ... Promotions at Warner Music Group's indie distributor Alternative Distribution Alliance: **David Orleans** to general manager, and **Amy Dietz** to vice president of label development.

Washington Internet Daily Calendar

May 17-18 PLI/Information Technology Law Institute forum on cloud computing, blogs and targeted marketing, PLI Center, 810 7th Ave., 21st Floor, New York — membership@pli.edu

- May 18 Broadband Breakfast Club speech by Canadian director general-telecommunications and others on National Broadband Plan, 8 a.m., Clyde's Gallery Place, Washington — www.broadbandcensus.com
- May 18 Talk on democracy and "unchecked nature of information" online, 7 p.m., National Press Club, webcast at www.millercenter.org and RSVP to reservations@press.org
- May 19 Public meeting of NTIA's Online Safety and Technology Working Group, 1:30 p.m., Room 4830, Commerce Department, Washington — 202-482-0977
- May 19 House Veterans Affairs Oversight Subcommittee hearing on information security, 10 a.m., Room 334, Cannon Building — 202-225-3569
- May 19 Direct Marketing Association webinar, "FTC Legislative Update," 2 p.m. — sgeramian@the-dma.org
- May 20 House Oversight Committee hearing, "Running out of Time: Telecommunications Transition Delays Wasting Millions of Federal Dollars," 9 a.m., Room 2154, Rayburn Building — 202-225-5051
- May 20 FCC monthly meeting, 10:30 a.m., 445 12th St. SW, Washington.
- May 23-25 Media Financial Management Association conference, with sessions on retransmission consent, spectrum and "pay walls," and speakers including FCC aide Steve Waldman, Renaissance Hotel; 611 Commerce St., Nashville — <http://xrl.us/bhfc3m>
- May 24-25 Practising Law Institute seminar on privacy and data security, PLI Center, Suite 100, 685 Market St., San Francisco — www.pli.edu
- May 25 USTelecom webinar on smart grids, 1 p.m. — webinars@thetelecomevent.com
- May 26 Joint workshop on promoting innovation by Justice Department, FTC and Patent & Trademark Office, 9 a.m., PTO offices, 600 Dulany Street, Alexandria, Va. — 202-514-2007
- May 28 University of Texas law school CLE on telecom, cable and wireless, AT&T Conference Center, Austin — www.utcle.org
- June 1 Free State Foundation panel on net neutrality after *Comcast*, 9:30 a.m., Information & Technology Foundation, 1101 K St. NW, Washington — info@freestatefoundation.org
- June 2 FTC roundtable on possible changes to Children's Online Privacy Protection Act, FTC Conference Center, 601 New Jersey Ave., NW, Washington — 202-326-2854
- June 3 Digital Government Institute cybersecurity conference, 8:30 a.m., Ronald Reagan Building, Washington — www.digitalgovernment.com
- June 8 Intelligence Squared debate on cybersecurity, 7:30 p.m., Newseum, Washington — 301-408-4500
- June 9 House Appropriations Government Subcommittee hearing on FCC budget, 10 a.m., Room 2359, Rayburn Building — philip.schmidt@mail.house.gov
- June 10-11 BNA/Pike & Fischer broadband conference, keynotes by senior FCC, NTIA, State Department officials, spectrum panel, Fairfax Hotel at Embassy Row, Washington — www.broadbandpolicysummit.com

- June 11 *Defense Daily* Cybersecurity Summit, 7:30 a.m., Washington Marriott at Metro Center, Washington — www.accessintelemail.com
- June 17 FCC monthly meeting, 10:30 a.m., 445 12th St. SW, Washington.
- June 21-22 Practising Law Institute seminar on privacy and data security, PLI Center, 810 7th Ave., 21st Floor, New York — www.pli.edu
- June 22 Building a Better Internet symposium by USTelecom and Connected Planet, Mandarin Oriental Hotel, Washington — kim.davidson@penton.com
- June 29 USTelecom webinar on smart grid policies, 1 p.m., webinars@thetelecomevent.com
- July 15 FCC monthly meeting, 10:30 a.m., 445 12th St. SW, Washington.
- July 19-20 Practising Law Institute seminar on privacy and data security, University of Chicago, Gleacher Center, 450 N. Cityfront Pl. Dr., Chicago — www.pli.edu
- Aug. 5 FCC monthly meeting, 10:30 a.m., 445 12th St. SW, Washington.
- Aug. 22-24 Technology Policy Institute Aspen Forum, St. Regis Hotel, Aspen, Colo. — 202-828-4405
- Sept. 16 FCC monthly meeting, 10:30 a.m., 445 12th St. SW, Washington.
- Oct. 14 FCC monthly meeting, 10:30 a.m., 445 12th St. SW, Washington.
- Nov. 4 FCC monthly meeting, 10:30 a.m., 445 12th St. SW, Washington.
- Dec. 15 FCC monthly meeting, 10:30 a.m., 445 12th St. SW, Washington.



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Michael Feazel Managing Editor
 Greg Piper Associate Managing Editor
 Dugie Standeford European Correspondent
 Scott Billquist Geneva Correspondent

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EDITORIAL & BUSINESS HEADQUARTERS

2115 Ward Court, N.W., Washington, DC 20037

Phone: 202-872-9200 Fax: 202-318-8984

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276 Fifth Ave., Suite 1002, N.Y., N.Y. 10001

Phone: 212-686-5410

Fax: 212-889-5097

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