

VFI Executive Briefing

A weekly roundup of technology news
April 11-15, 2016

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HILL UPDATE

ECPA REFORM

The Hill: [GOP chairman makes change to email privacy bill](#)

Email privacy legislation heading toward a long-anticipated House Judiciary Committee markup has undergone a series of small but significant changes ahead of Wednesday's vote. The new warrant protections at the center of the widely supported Email Privacy Act remain intact.

The Hill: [Bill requiring warrant for emails takes step forward in the House](#)

The House Judiciary Committee on Wednesday approved a bill to protect the private emails of Americans from the government, marking a small step forward for one of the most widely supported bills in Congress. The committee, on a unanimous 28-0 vote, approved the Email Privacy Act, which would require that law enforcement obtain a warrant before forcing a technology company to hand over a customer's emails or other electronic communications, no matter how old they are. When asked when the bill could hit the House floor, Chairman Bob Goodlatte said, "I would think soon, but we don't have a date yet."

FCC RATE REGULATION/NET NEUTRALITY

The Hill [Ban on Internet rate regulation heading for House vote](#)

Legislation to prevent the Federal Communications Commission from using its net neutrality rules to regulate the rates that companies charge customers for Internet service appears heading toward a House vote next week. The House Rules Committee next Tuesday will set up procedures for voting on the bill on the House floor. The bill passed out of the Energy and Commerce Committee last month on a party-line vote over objections from Democrats, who said it would end up cutting off broad portions of the FCC's regulatory authority. An amendment to the bill addressed some but not all of their concerns.

The Hill [Lawmakers split on cap for internet, phone subsidies at hearing](#)

Lawmakers tangled Wednesday over a bill that would impose a hard budget cap on the Lifeline subsidy program, which the Federal Communications Commission

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(FCC) recently expanded to cover broadband internet service. The bill is backed by Republicans who have long charged that the Lifeline program doesn't have enough protections from wasteful spending. It was one of seven measures considered at a lengthy House Energy and Commerce Subcommittee on Communications and Technology hearing.

SPECIAL COVERAGE

On April 14, Microsoft filed a [lawsuit against the United States in U.S. District Court for the Western District of Washington](#) challenging the constitutionality of the Non-Disclosure Orders ("gag orders") that frequently come along with search warrants and other legal process served on companies like Microsoft to produce customer data. Typically these gag orders prevent us from notifying the target of the investigation that their data has been requested and/or turned over, for some defined or undefined period of time. Microsoft is seeking a judgement declaring the statute unconstitutional under the First (freedom of speech) and Fourth (freedom from unreasonable search and seizure) Amendments.

As Brad noted in his blog the reason for filing the lawsuit is that Microsoft needs "to stand up for what we believe are our customers' constitutional and fundamental rights – rights that help protect privacy and promote free expression."

Below is a summary of the coverage including a link to the blog announcing the lawsuit.

- **Brad Smith Blog:** [Keeping secrecy the exception, not the rule: An issue for both consumers and businesses](#)
- **New York Times** [Microsoft Sues U.S. Over Orders Barring It From Revealing Surveillance](#)
- **Washington Post** [Microsoft sues over law banning tech firms from telling customers about data requests](#)
- **Reuters** [Microsoft sues U.S. government over data requests](#)

ARTICLE SUMMARY

New York Times Sunday Magazine Cover Story [The Minecraft Generation: How a clunky Swedish computer game is teaching millions of children to master the digital world](#)

In this way, Minecraft culture is a throwback to the heady early days of the digital age. In the late '70s and '80s, the arrival of personal computers like the

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Commodore 64 gave rise to the first generation of kids fluent in computation. They learned to program in Basic, to write software that they swapped excitedly with their peers. It was a playful renaissance that eerily parallels the embrace of Minecraft by today's youth. As Ian Bogost, a game designer and professor of media studies at Georgia Tech, puts it, Minecraft may well be this generation's personal computer. At a time when even the president is urging kids to learn to code, Minecraft has become a stealth gateway to the fundamentals, and the pleasures, of computer science. Those kids of the '70s and '80s grew up to become the architects of our modern digital world, with all its allures and perils. What will the Minecraft generation become?

Wired [The Senate's Draft Encryption Bill Is 'Ludicrous, Dangerous, Technically Illiterate'](#)

AS APPLE BATTLED the FBI for the last two months over the agency's demands that Apple help crack its own encryption, both the tech community and law enforcement hoped that Congress would weigh in with some sort of compromise solution. Now Congress has spoken on crypto, and privacy advocates say its "solution" is the most extreme stance on encryption yet. On Thursday evening, Senators Richard Burr and Diane Feinstein released the draft text of what they've called the "Compliance with Court Orders Act of 2016," a nine-page piece of legislation that would require people to comply with any authorized court order for data.

New York Times [The tremendous ambitions behind New York City's free WiFi](#)

At this very moment in New York City, you can walk up to one of 65 futuristic kiosks, punch in an email address on your phone and instantly receive a wireless Internet connection that follows you around town. It's free — and it's fast. Each kiosk, which is really an old payphone that's been converted into an Internet terminal, is connected to gigabit fiber optics. It's like having Verizon FiOS on every street corner, pumping out WiFi. Free, city-wide WiFi has been an elusive dream for many urbanists. But if any city were to figure it out at scale, it would probably be New York.

Reuters [Microsoft offers first major endorsement of new EU-U.S. data pact](#)

Microsoft (MSFT.O) became on Monday the first major U.S. tech company to say it would transfer users' information to the United States using a new transatlantic commercial data pact and would resolve any disputes with European privacy watchdogs. Data transfers to the United States have been conducted in a legal limbo since October last year when the European Union's top court struck down

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the Safe Harbour framework that allowed firms to easily move personal data across the Atlantic in compliance with strict EU data transferral rules.

The Hill [Facebook moves to political hot seat with WhatsApp](#)

A Facebook subsidiary and its high-flying parent company could be the next tech firms in the encryption hot seat. WhatsApp, the messaging application that Facebook bought for \$19 billion just over two years ago, announced this week that all its users' messages will be encrypted, end-to-end, by default. That means that everything sent over the platform — whether it's a video, a snippet of a voice recording, or a regular text message — is only accessible to the participants in the conversation.

Fortune [U.S. Firms Stampede Immigration Services to Hire Skilled Foreigners](#)

American companies are desperate to hire skilled foreign workers. U.S. Citizen and Immigration Services announced on Thursday that applications for skilled-worker visas, known as H1-B visas, had surpassed the 85,000 limit set by Congress for the entire year, within the first five days that applications were accepted. That means that applications for visas will now be processed via lottery.

Morning Consult [NRC Moves to Adopt Cybersecurity Regulations](#)

In light of worries about nuclear facilities and their vulnerability to cyber attacks, the Nuclear Regulatory Commission is moving forward on rulemaking that would adopt new cybersecurity requirements for facilities that house nuclear materials. A final regulatory basis document scheduled to be published in the Federal Register on Tuesday, would support rulemaking to allow the NRC to adopt new cybersecurity requirements at nuclear fuel cycle facilities.

The Hill [GM starts lobbying on self-driving cars](#)

General Motors has hired a series of lobbyists to push its case for self-driving vehicles to lawmakers and regulators. The auto manufacturer has brought on The Fritts Group, a boutique lobbying firm, to advocate on self-driving cars, connected cars and cybersecurity privacy, according to a disclosure filed earlier this week.

NOTABLE QUOTES

"People have a whole new set of privacy expectations that are understandable... They also expect, though, that since their lives are all digitized that the digital world is safe, which creates a contradictory demand on government: 'Protect me

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from hackers, protect me from terrorists, protect me from etc., etc., etc. But I don't want you to know any of your business and I don't even want you to have the ability to investigate some of that business when it happens because of its broader implications and we're worried about Big Brother."

- [President Barack Obama](#)

"I gotta say in my nearly 20 years of work in tech policy this is easily the most ludicrous, dangerous, technically illiterate proposal I've ever seen."

- [Kevin Bankston, director, New America Foundation's Open Technology Institute](#)

We believe that with rare exceptions consumers and businesses have a right to know when the government accesses their emails or records. Yet it's becoming routine for the U.S. government to issue orders that require email providers to keep these types of legal demands secret. We believe that this goes too far and we are asking the courts to address the situation.

- [Brad Smith, President and Chief Legal Officer, Microsoft](#)

Minecraft is thus an almost perfect game for our current educational moment, in which policy makers are eager to increase kids' interest in the 'STEM' disciplines - science, technology, engineering and math.

- [Clive Thompson, Contributing Writer, The New York Times](#)

"We continue to believe today that additional steps will be needed to build upon the Privacy Shield after it is adopted, ranging from additional domestic legislation to modernization of mutual legal assistance treaties and new bilateral and ultimately multilateral agreements. But we believe that the Privacy Shield as negotiated provides a strong foundation on which to build."

- [John Frank, Vice President of EU Government Affairs, Microsoft](#)