

The road ahead for Wheeler and O’Rielly — Music, movie groups target search for next anti-piracy action — Helium time crunch tightens

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THE ROAD AHEAD FOR WHEELER AND O'RIELLY — The two pending nominees to the FCC, Tom Wheeler for chairman and Michael O'Rielly to fill its open GOP slot, are on track for confirmation before the Senate's October break. Commerce Committee chief Jay Rockefeller said after O'Rielly's hearing on Wednesday that he intends to schedule votes on both candidates (as well as an FTC nominee) "soon," though he didn't elaborate as to what that actually meant. Still, the senator added he would "push for quick consideration on the Senate floor." And that might be in the cards: Rockefeller's GOP counterpart, Sen. John Thune, said explicitly he hopes to send both Wheeler and O'Rielly to the FCC before the next recess. We're tracking.

FOR NOW, WHO IS O'RIELLY ANYWAY? — He doesn't like incentive auction conditions, generally speaking; he sees room for a look at indecency and enforcement; he said explicitly there's potential to relax media ownership rules; and he too sees issues in Lifeline. For more, Tony Romm with the recap: <http://politico.pro/1584Ew5>

MUSIC, MOVIE GROUPS TARGET SEARCH FOR NEXT ANTI-PIRACY ACTION — Your MT-er, in this morning's paper: 'Chastened by the backlash over anti-piracy legislation last year, the music and movie industries are touting voluntary industry initiatives to curb online content theft — but say they're missing a key player: Google...The movie and music industry groups have helped usher in voluntary agreements with Internet-service providers to discourage sharing of infringing files via BitTorrent and with advertising networks to block cash flow to piracy sites. But the biggest players not at the table are the search engines, said Cary Sherman, CEO of the Recording Industry Association of America.'

"Google says it's an industry leader in handling takedown requests under the Digital Millennium Copyright Act...A research paper last month from the Computer and Communications Industry Association — which counts Google, Microsoft and Yahoo as members — found that demoting or removing links to piracy sites from search engines would have little effect on the level of piracy...The RIAA has targeted Google by name repeatedly this year, accusing the search engine of not doing enough to demote search results for piracy sites — a criticism echoed by House Judiciary ranking member John

Conyers in his statement for the Wednesday hearing. The content groups are aiming to spur agreement among the various search providers to take some new action.” MORE: <http://politico.pro/156nq7j>

GOOD THURSDAY MORNING and welcome to Morning Tech, where we’re not sure why Cleveland would trade their franchise running back to Indy out of nowhere. But it happened Wednesday, and we’re happy to hash out the fantasy implications with you if you ping us at abyers@politico.com and [@byersalex](https://twitter.com/byersalex). Don’t miss the rest of the team’s contact info, after speed read.

HELIUM TIME CRUNCH TIGHTENS — Congress still has to pass a measure to extend the life of the federal helium reserve if it wants to avoid shutting off access to almost half of the country’s stockpile — but the clock is ticking. Senate Majority Leader Harry Reid gave tech companies and other firms that rely on the gas a sliver of hope this week by placing a new bill to stave off the shutdown on a Senate calendar via the Rule 14 process. It’s part of “a number of issues that we’re going to work on” Reid said Wednesday, but for now, it’s just a procedural move and both chambers have a continuing resolution to deal with before Oct. 1. Supporters have tried to start moving the bill by unanimous consent, but objections still remain.

For the tech set, the Hill is coming maddeningly close to deadline — without a new law by the end of September, the effects of having less helium will start to hit the industry, they say. “We’re hours away from a point where we have to start deciding what to shutdown and where,” said Micron Technology’s Jon Hoganson. “Hospitals will have to stop providing MRIs. Unless Congress acts in the next few days, advanced manufacturing in the us will suffer.” ITI spokesman Tom Gavin told MT that “we’re increasingly frustrated that this commonsense, bipartisan bill — critical for so many sectors of our economy — has not moved through unanimous consent,” adding that the group is appreciative of Reid’s action.

MORE ON THE HILL FOR ZUCK TODAY — The Facebook co-founder returns today to the Capitol today to talk with congressional leaders and an assortment of other lawmakers on issues from immigration (about which he feels optimistic) to online privacy concerns (about which he appears defensive). Zuckerberg’s Wednesday stop included an immigration talk with Gang of Eight leader Chuck Schumer, but many of his meetings will take place today, the day after a big appearance at the Newseum. A Facebook spokesperson billed his trip partly as a good will visit to “listen and to learn.”

The tech CEO has garnered attention for his recent lashings on the government’s initial response to its surveillance activities. But he struck a more measured tone at Wednesday’s event — back in his characteristic hoodie garb — saying he didn’t think “the answer is no governmental requests for national security” but that transparency would go a long way in making the public “more comfortable.” More from Jessica on his visit: <http://politi.co/18aCe90>

DO NOT TRACK KIDS ACT RETURNING, WITH TWEAKS — Massachusetts Sen. Ed Markey still plans to introduce his kids online privacy bill this session, he said in his first Senate speech Wednesday. The bill went nowhere in the House last Congress, and to be sure, an uphill climb remains this year. But there will at least be some changes to the legislation when it comes back around — a Markey spokeswoman told MT the tweaks include offering more specificity about the bill’s “eraser button,” which would allow

kids or parents to delete information from a site in some circumstances. The lawmaker is also still looking at making the rules apply to kids under the age of 16, rather than under 13 — the age where the major kids privacy law, COPPA, draws the distinction. Expect introduction “very soon,” the spokeswoman added.

NAB TO HJC: WE DIDN'T MISLEAD — The National Association of Broadcasters is pushing back on allegations from Time Warner Cable that one of its representatives misled lawmakers at a STELA hearing last week. In fact, the broadcasting group says, witness Gerry Waldron's assertion that digital video rights were a big part of the dispute that led to the TWC-CBS retrans blackout was right on the money. “It was extensively documented in press reports, by industry analysts, and in public statements made by the companies that digital video rights indeed did play a significant role in the negotiations,” the group wrote to committee leaders Wednesday. The idea that cable companies can't impose restrictions on broadcasters during retrans talks doesn't fly, they say, adding “we urge you to reject the disinformation campaign of Time Warner Cable.” Catch the letter here: <http://bit.ly/1eRBriz>

TODAY: EPIC HOSTS NSA AUTHOR JAMES BAMFORD — The Electronic Privacy Information Center hosts a discussion of Section 215 of the PATRIOT Act today, just two days after the latest Foreign Intelligence Surveillance Court disclosures that have pulled back the curtain on the court's and the government's thinking on the intelligence community's ability to bulk obtain phone metadata. Author James Bamford, a leading expert on the U.S. intelligence agencies, will keynote before a panel with representatives from the Cato Institute, the National Constitution Center, EPIC, and Georgetown and American Universities. Things get started at 8:30 at the National Press Club: <http://bit.ly/1eREyad>

ALSO: PTO MEETUP IN SILICON VALLEY ON PATENT REFORM — Silicon Valley patent office director Michelle Lee and PTO Government Affairs Director Dana Colarulli are in Sunnyvale this afternoon at NetApp's headquarters to bring the patent reform discussion to California. Lee and Colarulli are expected to talk about the Obama administration's five executive actions on patent reforms set out in June, but dwarfed in the news cycle by the first NSA revelations that came a day later. The administration also announced seven possible legislative reforms, many of which have been introduced by congressional leaders. Carl Guardino and the Silicon Valley Leadership Group is hosting the event and will take questions from the tech execs, but one question Lee will surely get will be on if or when the Silicon Valley PTO office will find a permanent home. Those plans have been put on hold as part of budget cuts and sequestration.