

Cable Views

Ohio Cable Telecommunications Association

Issue 1 2015

From the Executive Director: Double Tax is Double Trouble



Jonathon McGee
OCTA Executive Director

Like a bad penny, a discriminatory sales tax on cable TV services has once again turned up in the state's biennial budget bill. But the version included in House Bill 64, the budget for fiscal years 2016-2017, is even more oppressive to cable customers than those that have come before, as it would result in a huge discrepancy between the taxes they pay and those assessed on comparable video services, including satellite TV.

The Ohio cable industry and its customers oppose the sales tax on cable service, as it would amount to double taxation. Cable's video product in Ohio is regulated by the Ohio Department of Commerce and taxed at the local level through the video service provider (VSP) fee. The rate of the video service provider (VSP) fee is set by, and remitted to, local governments. Local governmental authorities in Ohio may set the VSP fee at a rate up to five percent of revenue derived from the provision of video service. Additionally, they may elect to include in the calculation revenue from advertising sales, which can drive the effective rate above 5%. Adding a new state sales tax also on cable service would amount to the service being taxed twice.

The new tax would also put cable at a competitive disadvantage. Our largest competitor in Ohio is Direct Broadcast Satellite (DBS). With 1.2 million Ohio customers, the DBS industry is the second largest provider of multi-channel video in Ohio with about 32% of the market. While DBS does currently pay the state sales tax on its video service, it does not pay the local VSP fee or county sales taxes as federal law prohibits local taxes. By adding this new tax on cable service, cable customers' tax burden could be as high as 14%, when adding in the VSP fee and the new state and local sales tax. DBS customers would still be only paying the state sales tax. Further, cable would be placed at a competitive disadvantage in relation to the newest video market entrant, over-the-top (OTT) providers such as Netflix, Hulu and Sling TV. While OTT providers are subject to the state and local sales taxes as a digital good, OTT providers still do not pay the VSP fee (and many that lack nexus to Ohio may not be even collecting the sales tax).

The Ohio General Assembly realized over a decade ago that taxing cable service at both the local and state level, when satellite service can only be taxed at the state level, would be inequitable. When the legislature adopted the state sales tax on satellite service, that action in fact served to level the playing field between the video service providers. The United States Supreme Court has upheld this tax structure, declining to hear an appeal by the satellite industry of the Ohio Supreme Court's ruling that upheld Ohio's existing tax structure on cable and satellite.

The OCTA will continue to educate both the Ohio House and Senate on our opposition to this new tax. We will keep members apprised of developments throughout the process and provide them the tools needed to educate legislators in their districts on this issue, ensuring that our cable customers are not unfairly subjected to double taxation and that our industry is not placed at a competitive disadvantage by this legislation.

A handwritten signature in black ink that reads "Jonathon McGee".



Ohio Senate President Keith Faber presents a Senate commendation to Ed Kozelek at the March 4 Legislative Luncheon. See article p. 4

With Senator Bill Seitz

A lifelong resident of Western Hamilton County, State Senator Bill Seitz began his public service career as a member of the Cincinnati Board of Education. Prior to joining the Ohio Senate in 2007, Seitz served in the Ohio House of Representatives for seven years, where he served as Majority Whip and chair of the Civil and Commercial Law Committee. In the Senate, Seitz serves as Chairman of the Public Utilities Committee and Vice-Chairman of the Government Oversight & Reform Committee. Senator Seitz has been at the forefront of criminal and civil justice issues, leading the effort to reform Ohio's criminal sentencing laws and eliminate the barriers to employment many non-violent offenders face following their release from prison. He has also worked to enhance penalties for violent offenders and to keep sex predators away from our children. He was the key architect of Ohio's sweeping tort reforms that transformed Ohio's civil justice landscape and made Ohio more business-friendly. Senator Seitz is an alumnus of the University of Cincinnati, where he graduated summa cum laude with an undergraduate degree in history. He also earned his Juris Doctorate from the University of Cincinnati College of Law.

Fast Facts:

Favorite Cable Channel: Fox News

Reds, Bengals, Both or Other: Both, but mostly Bengals

Quote to Live By: "Be sure you're right then go ahead," Daniel Boone

Ohio Hero: William McKinley

Comedian Who Makes You Laugh: George Carlin would be one.



Jonathon McGee: You got your political start at a very local level serving as a school board member and as a township trustee, and you have noted that "government governs best when closest to the people." How does that apply to your role in the State Senate?

Bill Seitz: We try to give locals as much flexibility as we can. But there are certainly times when a statewide concern predominates over local interests. The balancing test is to make sure you are retaining as much local flexibility as is reasonable while making sure that you are operating in the best interest of all 11 million people in the state. A good example is our legislation regarding concealed carry, which is something we need to do to facilitate travel and prevent folks from having to deal with a patchwork quilt of local and conflicting ordinances. Another example is our recent legislation that banned the use of red light and speed cameras unless a sworn police officer was present to witness the violation. A lot of cities think that violates home rule; I don't. Frankly, some cities were using that to get revenue from non-residents; to me, that made it a matter of statewide concern where we had to act at the state level.

JM: What steps do you take to insure that you represent the interests of your constituents in the Senate?

BS: We have an open-door policy. I think most people would tell you that I actually respond to most of my constituent emails and phone calls, and not with the usual BS response: "Thank you for your letter, we will take this into consideration as we move forward."

I write an actual response. I'm either with them or against them, and if I'm against them I tell them why. And a lot of times they really appreciate that even if we end up not agreeing. I think the key to being an engaged legislator is actually being engaged with your constituents. That means being visible in the district, and treating them as equals and intelligent people who deserve answers to the questions that they take the time to contact you about. Our office prides itself on that level of constituent service.

JM: What are some other core beliefs that guide you in your work?

BS: Over the 15 years that I've been here, I've been a major advocate of civil justice reforms that make Ohio a more business-friendly state. You and I worked on that when you were Chief of Staff here in the House, and we've made remarkable progress. I've also been a great devotee of criminal justice reform, where we're trying to reduce recidivism, reduce costs, and reduce prison overcrowding through evidence-based practices that work. The old philosophy of 'lock everybody up and throw away the key' did not work, is not working, and is very costly. Through the kind of reforms that I've championed to both Republican and Democratic administrations we've been able to slow the growth in the prison population and, more importantly, deliver the best recidivism rate in the United States. Only 27.1 percent of our prison offenders re-offend within three years; in most other states it's upwards of 50 percent. The third concern of mine goes back to my roots: local government funding and education funding. Sure, money isn't the answer to everything, but any good institution of local government or

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Capital Update

Regulatory Update

New PUCO Member

Governor Kasich appointed Ohio Department of Commerce Director Andre Porter to the seat on the PUCO currently held by Commissioner Steven Lesser, whose term expires on April 10th. Mr. Porter previously served on the PUCO before being tapped by the governor to head Commerce.

Underground Utilities Protection Laws

SB 378, which made changes to Ohio's underground facilities protection law, was passed late last year. SB 378 was designed to provide for better enforcement of the law. (For your reference, a summary of the legislation is posted on the OCTA website.) As part of the new law, the PUCO is given sole authority over the administrative investigation and adjudication process. The PUCO announced a workshop on March 19th to receive input on what the rules administering this process should look like (there are no draft rules at this time). The OCTA attended this workshop and we expect proposed rules to be issued in July.

Retail Rules

The PUCO opened a docket to review its Retail Telephone Rules contained in Ohio Administrative Code 4901:1-6. This review is mandated by Ohio law, which requires agencies to review their rules at least once every five years; these rules are due to be reviewed by November 2015. The OCTA filed initial and reply comments in this docket. We now await the PUCO's issuance of an Entry regarding the rules.

Legislative Update

The 131st Ohio General Assembly convened on January 5th and spent its first month on organizational matters. Now fully organized, it has started its work in earnest.

Biennial Budget

Governor Kasich unveiled his two-year budget proposal on February 2nd. The bill (HB 64) containing the proposal was introduced in the House on February 11th. It was sent to the five standing sub-committees of the full Finance committee, and to the House Ways and Means committee, for further, detailed review. A series of lengthy hearings have been going on in the House since HB 64's introduction, and now the Senate Ways and Means committee has begun informal hearings on the tax provisions of the bill so that its members can become better acquainted with the tax proposal before the bill is passed over to the Senate by the House.

Of importance to cable, HB 64 subjects many items to the state sales tax, including cable service, and the Department of Commerce's video service provider fee increases by 14% for the first fiscal year of the budget. In addition to expanding the sales tax base, the rate is also proposed to increase by 0.5% from 5.75% to 6.25%. The Commercial Activities Tax (CAT) rate is increased by 23%, and the vendor discount on sales tax collection is reduced. These tax increases are designed to enable the state to further cut the personal income tax rate, and to give small businesses a tax break. The OCTA is opposed to these proposed tax increases. The OCTA has been educating members of the Ohio House on our opposition, and this was a focus of our lobby day on March 3rd. Additionally, OCTA Executive Director Jonathon McGee and MCTV President Robert Gessner testified in opposition before the House Ways and Means committee on March 11th. While the OCTA is opposed to all of the business tax increases contained in

HB 64, the focus of our testimony was on the new sales tax on cable service. For more on that issue, see the "Double Trouble" article on Page 1.

Telecom Deregulation

Having failed to obtain passage of its telecom deregulation legislation in the last General Assembly, due in part to a veto threat from the governor, the Ohio telecom industry was able to get language added to the introduced version of HB 64 after working out an agreement with the governor's office. Except for changes providing more safeguards to customers who could stand to lose service if the telecom provider is allowed to withdraw service, the language is what was proposed in the last general assembly. The OCTA is neutral on this telecom deregulation language as the OCTA worked with the telecom industry on language that would protect cable's ability to interconnect, obtain wholesale tariffing, and continue to attach to telecom owned poles.

As part of the new consumer protections in HB 64, a "collaborative process" is created "to address the Internet-protocol-network transition." As part of this process, the PUCO is to work with certain listed stakeholders including ILECS; CLECs that provide BLES and that are affected by the transition; the Ohio Consumers' Counsel; and, at the invitation of the PUCO, other interested parties and members of the legislature. The OCTA will work to have cable added to this collaborative process as cable's interests will be most certainly affected by the transition.

Ohio Cable★PAC

Ohio Cable Political Action Committee

Company Participation

(January 1 – March 15, 2015)

Company	Amount Raised	Goal
Armstrong Cable	\$0	\$2,496
Buckeye CableSystem	\$451	\$10,972
Comcast	\$0	\$1,430
Cox Communications	\$0	\$3,068
G.L.W. Broadband	\$0	\$400
MCTV	\$17,500	\$3,270
Suddenlink	\$0	\$1,400
Total	\$17,951	\$23,036

Individual Contributions

Buckeye CableSystem

Mike Bilik
Florence Buchanan
Laurie Cichy
Bonita Ehrhardt
Pamela Koontz
Jessica Pitzen
Sarah Riedeman
Charles Riley
Nicholas Vitou
James Wolsiffer

MCTV

Katherine Gessner
Nancy Gessner
Richard Gessner
Robert Gessner
Susan Gessner

OCTA

Jonathon McGee

Erie County CableVision Inc.

Patrick DeVille

Thank you for your support!

Ed Kozelek Recognized as Honorary Member During Legislative Luncheon

The OCTA hosted its 20th Annual Legislative Luncheon on Wednesday, March 4th at the Columbus Renaissance Hotel in Columbus. Our featured speaker, **John Heilemann** of Bloomberg Politics/Bloomberg TV, offered insightful comments on Congress and the Obama administration, along with knowledgeable - and humorous - handicapping of the current field of candidates for the 2016 Presidential election.

During the luncheon, OCTA Board President **Ed Kozelek** was recognized as an Honorary Member of the OCTA. Now Vice President of Government Relations for Time Warner Cable's Midwest Region, Kozelek previously served the OCTA as Executive Vice President and Director of Government Relations. Ed's steadfast commitment throughout twenty-five plus years in the Ohio cable industry, and his dedication in service to the OCTA, were noted in remarks by OCTA Executive Director Jonathon McGee. Kozelek joins the ranks of OCTA Honorary Members including Ted Turner, Amos Hostetter, Claude Stevanus, Chuck Younger, James Gray, Richard Gessner, Tom Dawson and Robert Gessner. Ohio Senate President Keith Faber, Speaker of the House Cliff Rosenberger, and former Speaker Bill Batchelder (on behalf

of Governor Kasich and Lieutenant Governor Taylor) also presented Ed with commendations on receiving the award. Our congratulations to Ed on being named the OCTA's newest Honorary Member.

In conjunction with the Luncheon, the OCTA coordinated a Lobby Day on March 3rd. Participating OCTA members had meetings with over 70 different legislative offices, making the day a great success. Thanks to these industry advocates for sharing cable's message with their elected officials.

The annual Legislative Luncheon would not be possible without the support of OCTA members and friends. Thanks to Time Warner Cable for sponsoring the Luncheon and to Precision Broadband Installations for hosting. Thanks also to event sponsors Buckeye CableSystem; Ohio Council of Retail Merchants; Strategic Impact Consultants; VanMeter, Ashbrook & Associates; Byers, Minton & Associates; Carpenter Lipps & Leland; Comcast; Cox Communications; Grant Street Consultants; MCTV; Ohio Utilities Protection Service; Roetzel & Andress and Vorys, Sater, Seymour and Pease.



OCTA Executive Director Jonathon McGee recognizes Ed Kozelek as an Honorary Member of the Association



Ohio House Speaker Cliff Rosenberger marks Ed Kozelek's award with a House commendation



Legislative Luncheon Speaker John Heilemann with Ohio Secretary of State Jon Husted



John Heilemann with Luncheon Sponsor Chris Steining of Precision Broadband Installations

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any good local school district is going to need money to deliver a product that the people can be proud of. I've been an advocate for adequate funding to our local government, adequate funding to our local school districts and to our parochial schools which serve such an important role in so many of our neighborhoods.

JM: How are your past experiences being useful as chairman of the Public Utilities Committee?

BS: In the last two years and continuing in this session, I've branched out into a new area, public utility policy. That isn't as strange a disconnect as it might seem, because my background is as an antitrust lawyer, which is basically law as applied to economics. That's what public utility regulation is all about, and we've tackled some very tough issues dealing with the revision of Ohio's renewable energy mandates and energy efficiency mandates. No doubt we will have other interesting issues come before us this session, such as further deregulation of the telephone industry in a way that does not adversely affect the cable industry. So I find it a new challenge and one that I really enjoy, again having the opportunity to apply my legal background to these very interesting questions. I work very closely with Senator Balderson, who is my vice chairman, and I am also on his energy committee; we work hand in glove to try to deliver those results to Ohioans.

JM: Is there one thing in particular that you'd most like to accomplish in this session?

BS: Well, one thing that we need to take very seriously, and that I intend to put on the front burner, is the implementation of recommendations from a task force convened by the Supreme Court to review the way in which Ohio has implemented the death penalty. I support the death penalty, but I also support making sure that we take every precaution not to execute the innocent and that the system be made completely fair and completely objective if people are to have confidence in our justice system. That task force came up with 56 recommendations; some I do not support and many I do. I hate to see task force reports gather dust on the shelf, so I'm working with Senator Williams to implement broad areas of that report over the next two years. It'll be an uphill slog, but it's one I'm committed to.

JM: Turning back to your role in the public utilities committee: As issues become more complicated – in energy, in telecommunications, especially as there are newer technologies coming online – how do you stay on top of those issues?

BS: I think the key is to engage with the people who are working in that space. For example, if it's a question about cable, I would talk to you first. If it's a question about telephone, I would talk to the telephone folks. There's this attitude in Columbus that we should not interact with industry specialists because they are special interests. That's wrong. You're only going to find out about that industry if you engage the people in the industry rather than trying to invent the wheel by yourself. That doesn't mean that you're going to agree with them about everything, but it does mean that you're going to get up the learning curve a lot quicker. My general technique on legislation is to work it before I ever introduce it. Knowing who is likely to be for or against it, I try to convene those folks and work out as many of the details as I can on the front end. That smooths things on the back end and prevents your bill from becoming a three-ring circus that never passes.

JM: With term limits, are you concerned that there is a move away from the 'institutional knowledge' that was once held by long-term legislators?

BS: I wish I could make Ohio voters understand that term limits are a noble experiment that has failed in its objective. The fact is it has served to greatly diminish institutional knowledge in the legislature, it has served to embolden the executive branch and the bureaucracy against the legislature, and it has given lobbyists

a leg up because so many legislators are still trying to figure out where the front door is and they are more susceptible to the blandishments of lobbyists who are telling them partial truths. I think that some extension of the current, very strict term limits in Ohio is very much in order. There have been times in just the last two years when I've asked my new House folks, didn't you realize we had a bill on that in 2006, and the answer is we didn't know, we weren't here in 2006. Institutional knowledge is a very valuable thing, and if we want a vibrant legislative branch, legislators need to be able to stand on the same footing as the bureaucrats who are here for life, who oftentimes thumb their noses at us because they say we'll still be here when you're long gone so we're not going to listen to you. Frankly, it's time for Ohio voters to reconsider these very strict term limits that were passed in 1992; after 20-some years, hopefully we'll have that opportunity this fall.

JM: Since your time as a trustee or school board member, has your view of the role of government service evolved or changed?

BS: I think my view of the role of government has evolved and changed in this respect: I had a lot less respect for what government can do in my younger days than I do now. I see that there are many dedicated people in government whose sole goal is to try to make lives better for Ohioans. The trick is to find that balance between over-intrusive, over-regulatory government and a government that truly is trying to achieve positive change.

JM: Could you imagine a time when committee hearings are conducted by video conference?

BS: I have grave misgivings about televising or otherwise videoconferencing senate hearings. I think people will start mugging for the cameras instead of engaging in the kind of rigorous, intellectual, fact-based cross-examination that makes for the development of good public policy. There are too many people who would become prima donnas, primp and pose for the camera, and put on spectacles if they knew they were being videotaped or video-streamed. I do not favor the widespread videotaping of committee hearings, which is where most of the hard work is done. That's where we get to the bottom of the issue, where we get honest answers to some very hard questions. I think you lose a lot of that when it becomes a television show.

JM: You've been dubbed the 'funniest' of Ohio's legislators, and rated its 'best speechmaker'. Do those go hand-in-hand?

BS: I accept the compliment, but I'm not sure it's entirely deserved. There are many people here who have great senses of humor, and there are many eloquent speakers. I did learn to speak publicly at a very early age thanks to a great sixth grade teacher. I've never had the least bit of fear addressing audiences large and small. I think when you combine that with learning to not take yourself too seriously, you can develop a good sense of humor which is part of effective communication. You have to mix it up a little bit. People like colorful speakers, and I think that's been an attribute that I've had. If I've made life a bit more joyous for people around here, or given them a reason to chuckle, all the better.

JM: Do you have any parting advice for the cable industry?

BS: I think the cable industry has done a terrific job of staying engaged with their legislators, and with the community, both locally and at the state level. You are extremely receptive to legislators, you do public service announcements, you're in our offices all the time. We've been to your studios and seen the complexities of the industry you're running. Your industry is respected in Ohio, you have a lot of friends, you are very public-spirited in your support for causes that legislators hold dear. My only advice is to keep up that level of engagement with your public elected officials.

Read more *Face to Face* interviews online.
Click on *CableViews* at www.octa.org



Cable Calendar

The Cable Show

Introducing INTX: The Internet & Television Expo

www.thecablesow.com

When: May 5-7, 2015

Where: McCormick Place Convention Center
Chicago, IL

NAMIC National – Annual Awards Breakfast

www.namic.com

When: May 7, 2015

Where: McCormick Place Convention Center
Chicago, IL

SCTE Penn-Ohio Chapter Training Seminar

www.scte.org

When: May 14, 2015

Where: Comfort Inn Hotel & Suites
Pittsburgh, PA

ALEC Spring Task Force Summit

www.alec.org

When: May 15, 2015

Where: Hyatt Regency
Savannah, GA

SCTE Buckeye State Chapter Training Seminar

www.scte.org

When: May 21, 2015

Where: Advanced Industry Supplies
Columbus, OH

OCTA Legislative Reception /Technology Demo

www.octa.org

When: June 2, 2015 5-7 p.m.

Where: Capital Theatre Lobby, Vern Riffe Center
Columbus, OH

OCTA 2015 Golf Outing

www.octa.org

When: June 15, 2015

Where: The Lakes Golf & Country Club
Westerville, OH

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