

CableFAX Daily™

Wednesday — May 29, 2013

What the Industry Reads First

Volume 24 / No. 103

Match Point: DC Circuit Sides with Comcast in FCC's Tennis Order

The FCC's 1st decision finding that an operator violated program carriage rules has been thrown out by the DC Circuit Court of Appeals. In an opinion released Tues, the court ruled unanimously that the Commission didn't provide evidence that **Comcast** discriminated against **Tennis** on the basis of affiliation. The court will issue its mandate in the coming weeks, with many expecting it to vacate the FCC's order. The FCC offered no comment, nor any indication of whether it would appeal. Tennis Channel, however, made it clear that it will seek further review. It's easy to speculate on what the decision may mean for future program carriage complaints, but it's not cut and dry. **GSN** and **Cablevision** agreed to postpone their ALJ hearing until July in the hopes the court's Comcast decision might provide guidance on GSN's program carriage complaint. However, the 3-judge panel's decision is relatively narrow in that it rests on a lack of evidence of discrimination, not a broad decision as to FCC authority to act in program carriage cases. Still, there is some precedent setting, with **NCTA** (which filed in support of Comcast) declaring that it "provides important guidance for the Commission concerning the need to construe and apply the statute narrowly, as Congress intended." And the FCC's lone Republican, *Ajit Pai*, hopes that "the Commission will heed the lesson of today's DC Circuit decision and refrain from attempting to micromanage cable operators' programming decisions." Tennis Channel chmn/CEO *Ken Solomon*, in Paris Tues for the net's French Open coverage, said he didn't think anyone expected the case to be rejected for lack of evidence "because there is abundant and clear evidence of systemic and specific discrimination." Much of the buzz on the case centered on free speech and timeliness. "If Tennis Channel were not to ultimately prevail, it would effectively be the death of Section 616," Solomon told **Cfax**, referring to the Communications Act section that requires the FCC to establish rules to prevent an MVPD from engaging in conduct that would unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly. The case stems from a complaint Tennis filed in Jan '10, claiming that Comcast discriminated against it in favor of its own channels, **Golf** and **Versus** (now **NBC Sports Net**). Tennis is relegated to a sports tier in most systems, while Golf and Versus have much broader distribution. An administrative law judge sided with Tennis in Dec '11, and the Commission—over the objections of Republicans—upheld the ALJ decision last July. The DC Circuit stayed the FCC's order requiring Comcast to make Tennis available to virtually all its

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subs as it challenged the decision. At oral arguments this past Feb, Comcast looked likely to prevail, with judge *Harry Edwards* raising statute-of-limitations concerns and judge *Brett Kavanaugh* raising First Amendment issues. Indeed, both judges raised those issues again in concurring opinions, with Williams writing that the complaint is “almost 4 years late and should be dismissed as time-barred” and Kavanaugh writing that “the FCC cannot tell Comcast how to exercise its editorial discretion about what networks to carry any more than the Government can tell Amazon or Politics and Prose or Barnes & Noble what books to sell...” The court’s opinion, penned by judge *Stephen Williams*, didn’t touch on those issue, instead agreeing with Comcast that the record lacked any material evidence of “unlawful discrimination” and that Tennis’ proposal offered Comcast no commercial benefit.

Tennis Said/Comcast Said: Tennis threw out the obligatory “disappointed” in its reaction to Tues’ decision and said it wasn’t dropping the fight. “As a small, independent company defending ourselves against one of the world’s largest media conglomerates, we would love for this long process to be justly resolved and behind us. However, **Comcast’s** clear pattern of discrimination against Tennis Channel in favor of the competing networks that it owns—as detailed at length by the **FCC**—warrants further review of the panel’s decision and we intend to seek that review,” the network said. Comcast said it was pleased, adding that its decision to carry Tennis was the product of legit business considerations, not affiliation. “As Comcast maintained from the start, those facts did not and could not support the finding of discrimination necessary to sustain a program carriage violation,” the MSO said.

Show Biz: Make sure to say hello to the folks greeting and checking you in at the Cable HoF Dinner. The **Cable Center** is making 9 students at Northern Virginia Community College student ambassadors at its Cable Hall of Fame Celebration (June 10, DC). In addition to helping with event set-up, the students will have the chance to attend the **Cable Show**.

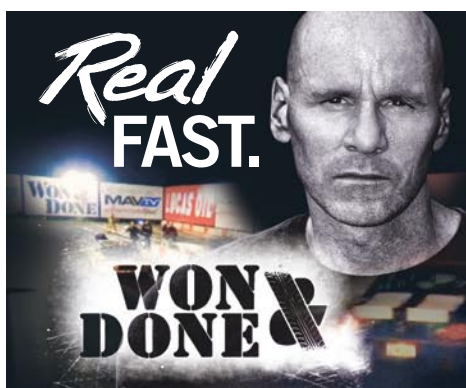
Competition: **DirectTV** is adding the “**PGA Tour Experience**,” featuring enhanced coverage of 4 PGA Tour events and a 4-in-1 screen Mix Channel. Starting this weekend with the Memorial Tournament, the Mix Channel features the **CBS Sports** net feed, “Launch Pad,” a channel devoted to analyzing long drive, “ShotLink Channel,” a data-driven view of tournament competition and a “Feature Group” channel, which lets viewers follow their favorite players.

Online: **CNN** and **Buzzfeed** launched video channel “CNN BuzzFeed,” offering mash-up news videos tailored for the social Web. The channel will make content available on both CNN.com and the CNN/BuzzFeed YouTube channel.

Clearwire: **Clearwire’s** board wants shareholders to vote for **Sprint Nextel’s** proposed transaction, according to an open letter. Sprint upped its offer for Clearwire to \$3.40 a share last week. Other alternatives aren’t “actionable or do not deliver better value,” the letter said, citing **DISH’s** offer and **Verizon’s** “preliminary” interest in buying 5bln MHz POPs of spectrum leases for up to \$1.5bln.

Ratings: **HBO’s** “Behind the Candelabra” premiere became the most-watched HBO film premiere since ’04. It scored 2.4mln viewers at 9pm and totaled 3.5mln viewers across 2 plays Sun night. -- **Animal Planet’s** “Mermaids: The New Evidence” telecast on Sun evening was the net’s most-watched telecast of all time, with the premiere scoring 3.6mln P2+ viewers. That made Animal Planet the #1 net in all of television for the timeslot among 25-54 and W25-54.

On the Circuit: **CTHRA’s** session at the Cable Show on June 10, “Impact Assessment: The Affordable Care Act,” will be moderated by **NBC News** chief foreign affairs correspondent *Andrea Mitchell*. Panelists include *Matthew Eu-*



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The winners and honorable mentions will be honored **September 24, 2013** in New York City at the Yale Club.

Winners and honorable mentions will be awarded in the following categories:

Platinum/People Categories:

- Best Actor in Cable
- Best Actress in Cable
- Best Cable Program
- Best New Cable Program
- Best Showrunner
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By Genre: Best Show or Series In The Following Genre:

- Animals/Nature
- Animated
- Children's
- Comedy
- Documentary
- Drama
- Education/Instructional
- Faith Based/Religious
- Family Friendly
- Food
- Music
- News
- Public Affairs
- Reality*
- Reality Competition/Game Show
- Regional Program
- Sci Fi
- Sports
- Talk Shows
- Other: enter your best in a genre (not mentioned above)

By Genre: Best Actor/Actress/Host In The Following Genres:

- Comedy
- Drama
- Family Friendly
- Food
- Music
- News/Public Affairs
- Reality Competition/Game Show
- Regional Program
- Sports
- Talk Shows
- Other: enter your best in a genre (not mentioned above)

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- Best Opening Sequence

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- Best Online-Only/Mobile-Only Show
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Questions: Contact Mary-Lou French at mfrench@accessintel.com or (301) 354-1851.

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BUSINESS & FINANCE

rey, vp of benefits for **Time Warner Cable**; *EJ Holland, Jr.*, assistant sec for administration at the **US Department of Health & Human Services**; and *Jeffrey Shapiro*, vp, enterprise benefits for **Disney**.

Programming: **Comedy Central** renewed "Inside Amy Schumer" for a 2nd season. The 10-ep run will premiere next year. -- **NatGeo** tapped *Rob Lowe* to star as *John Kennedy* in the upcoming 2-hour original factual drama "Killing Kennedy," which premieres later this year in the US and globally, timed to the 50th anniversary of the assassination. -- **Spike TV** is the official broadcaster for the '13 Electronic Entertainment Expo (E3). Live multi-platform coverage will start June 10. -- **MSG** will telecast the New York Liberty's home schedule this season, a total of 17 games, starting Fri. -- **Syfy** original movie "Independence Day-Saster," premieres June 27. The film features an alien invasion that cripples America's defense forces.

People: *Chris Linn* joined **Turner Broadcasting** as pres/head of programming, **truTV**, replacing the channel's evp/coo *Marc Juris*, who left earlier this month. Linn was previously evp, programming and head of production at **MTV**. He reports to *Steve Koonin*, pres of **Turner Ent Nets**. -- **MTV** upped *Lauren Dolgen* to head of West Coast reality programming, evp of series development.

CableFAX Daily Stockwatch

Company	05/28 Close	1-Day Ch	Company	05/28 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	63.80	0.06	CSG SYSTEMS:	21.73	0.98
DISH:	40.14	0.81	ECHOSTAR:	39.21	0.63
DISNEY:	66.69	1.20	GOOGLE:	881.27	7.95
GE:	23.60	0.07	HARMONIC:	6.25	0.15
NEWS CORP:	33.37	0.12	INTEL:	24.08	0.16
MSOS					
CABLEVISION:	15.50	0.16	JDSU:	13.37	0.30
CHARTER:	114.10	1.25	LEVEL 3:	21.57	(0.28)
COMCAST:	41.82	(0.13)	MICROSOFT:	35.02	0.75
COMCAST SPCL:	39.86	(0.22)	RENTRAK:	23.92	1.44
GCI:	8.96	(0.09)	SEACHANGE:	11.13	0.19
LIBERTY GLOBAL:	75.58	0.03	SONY:	20.67	(0.29)
LIBERTY INT:	23.19	0.22	SPRINT NEXTEL:	7.27	(0.06)
SHAW COMM:	22.78	(0.1)	TIVO:	13.20	0.29
TIME WARNER CABLE:	96.27	1.24	UNIVERSAL ELEC:	27.49	0.81
VIRGIN MEDIA:	50.38	0.07	VONAGE:	2.71	0.01
WASH POST:	482.45	8.69	YAHOO:	26.07	(0.26)
PROGRAMMING					
AMC NETWORKS:	67.41	1.51	TELCOS		
CBS:	51.30	0.55	AT&T:	36.18	(0.57)
CROWN:	2.07	0.02	VERIZON:	50.82	(0.57)
DISCOVERY:	80.80	1.27	MARKET INDICES		
GRUPO TELEVISA:	25.75	0.00	DOW:	15409.39	106.29
HSN:	57.93	1.17	NASDAQ:	3488.89	29.75
INTERACTIVE CORP:	50.68	(0.05)	S&P 500:	1660.06	10.46
LIONSGATE:	28.95	0.89			
SCRIPPS INT:	70.01	1.21			
STARZ:	23.44	0.68			
TIME WARNER:	60.29	1.01			
VALUEVISION:	4.74	0.02			
VIACOM:	70.23	0.24			
WWE:	9.48	0.20			
TECHNOLOGY					
ADVANTAGE:	2.32	0.05			
ALCATEL LUCENT:	1.58	0.10			
AMDOCS:	36.19	0.38			
AMPHENOL:	78.65	0.31			
AOL:	35.23	(0.94)			
APPLE:	441.44	(3.71)			
ARRIS GROUP:	15.44	(0.1)			
AVID TECH:	6.68	(0.13)			
BLNDER TONGUE:	1.02	(0.08)			
BROADCOM:	36.08	(0.51)			
CISCO:	23.89	0.36			
CLEARWIRE:	3.43	0.01			
CONCURRENT:	7.48	0.38			
CONVERGYS:	18.54	0.35			

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CableFAX TECH

Xbox One: Future TV?

With the launch of Xbox One, **Microsoft's** ambitions in the TV arena are again front and center. The Xbox's 8-core x86 processor lets users instantly switch between a game and entertainment apps with ease. In addition, the HDMI pass-through lets users watch TV through Xbox (no switching inputs needed). The device also features a Blu-ray player. However, without MVPD/ISP deals, the Xbox One is far from future of TV, **BTIG** analyst *Richard Greenfield* wrote, calling Xbox One "a work-around solution" to pump video channels through an HDMI pass-through instead of an IP feed. The device could be improved by using the pass-through for the video signals and then player using IP-based box information, including DVR info and set-top controls, according to Greenfield. Meanwhile, VOD and DVR control is missing, *Will Richmond*, pres/founder of consultancy **Broadband Directions**, noted in his blog. That means users would still rely on pay-TV VOD and DVR UIs. And while the device offers access to OTTs like **Netflix, Hulu Plus, Crackle** and **YouTube**, it doesn't appear to extend support for other video choices now available, *Richmond* wrote. He said Xbox One is "attractive" for gamers and for viewers whose TV experiences are mainly focused on live. But for those that are more into VOD, niche online programming or mobile device integration, it might not be a game changer. At least not yet.

Google Fiber: **Google** Fiber's Kansas City deployment could deliver an "extremely attractive" ROI, **Bernstein** analysts said Tues, with Google at least recovering its cost of capital. The analysts cited Google's flexibility to choose what markets it will target next. That means Google can expand its footprint while roughly replicating or improving on the Kansas City model and economics.

Restructuring: **HomeGrid Forum** and **HomePNA Alliance**, which include members like **AT&T, Cisco** and **Arris**, have merged to create a new group focused on promoting advanced wired home networking technologies. The combined entity, under the HomeGrid Forum banner, will pro-

mote the transition of existing wireline home networking technologies to G.hn, the "any wire" technology defined by **ITU-T** open international standards.

New Products: **Casa Systems** launched an integrated converged cable access platform to allow easier migration to the next generation of IP services. Dubbed C100G, the energy-efficient platform enables MSOs to deploy MPEG video, IPTV and DOCSIS over a single port.

Deals: Ad software firm **Canoe** has licensed **Black-Arrow** Affiliate, a toolset that enables programmers to manage ad avails in and around VOD content. The combination makes VOD dynamic ad insertion technology available across 28mln HHs in top metropolitan areas like NY, LA and Chicago. -- **Juniper Networks** and **Sonus** announced an alliance to develop Software Defined Network capabilities, integrating the Sonus 5000 Series of Session Border Controllers with Juniper's MX Series routers and SRC Policy Engine. The combo aims to let service providers handle the surge in video and Unified Communications traffic without resorting to overprovisioning. The companies are also working on ways to enable service providers to more rapidly scale their services up or down based on user demands, as well as use APIs to improve service delivery. **[For more info, go to www.cablefax.com/tech]**

Ultraviolet Doings: **ABI Research** predicts that the digital content locker initiative known as "UltraViolet" will exceed 65 million accounts globally—a dramatic increase from an estimated 6-8 million accounts right now. ABI also argued that the conversion of "key holdouts"—ie, content companies currently not supporting the UV initiative—to the UV cause could push the number past 100 million. One problem: UV isn't the only game in town. "If competing video libraries gain consumers' trust without joining the UltraViolet ecosystem, many of the components of UltraViolet will help facilitate B2B commerce, but will fail from a consumer perspective," said ABI practice director *Sam Rosen*. **[More at www.cablefax.com/tech]**

June 24, 2013 | Awards Breakfast | 8:30 – 10:30 am | Grand Hyatt in NYC

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