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Collusion Question: Free Press, Others Go After TV Everywhere

The 1st day back from a long holiday break brought word that **Free Press** and other consumer advocacy groups are asking Congress, **DOJ** and the **FTC** to probe whether **TV Everywhere** violates antitrust laws. **Free Press, Consumers Union, New America Foundation, Public Knowledge** and others allege that the initiative wouldn't be possible without illegal collusion, arguing that it forces consumers to buy into video packages to receive online content. **NCTA's** *Kyle McSlarrow* blasted the charges in a blog entry (cabletechtalk.com), saying the call for an investigation has no factual or legal basis and that calling it collusion is "strange." Wrote McSlarrow: "The fact that distribution of content requires a number of differing and competing parties to enter into a multitude of bilateral agreements is normal... Contrary to Free Press' suggestions, the antitrust laws do not prohibit, but encourage collaboration, even among competitors, that lead to innovation and new products and services for consumers." On a conference call with reporters Mon, the groups fretted that the model will transfer the cable video model from TV to online. "When we look at TV Everywhere, we see an effort that appears to be designed to foreclose the disruption of old business models and the expansion of competition that will lower prices and expand choices," said Free Press policy dir *Ben Scott*. The group outlined its issue in a 40-page report authored by *Marvin Ammori* of the Univ of Nebraska. While Free Press has some concerns with **ESPN 360**, Scott said it's not opposed to content owners charging for content online. The problem, he said, is bundling that content to make it available only to MVPD subs. NCTA was doing the talking for cable Mon, but **Time Warner Inc** (which coined the TV Everywhere name) did weigh in, saying it's committed to giving MVPD subs "more value for their money, by allowing them to watch their favorite shows when they want to watch them on both their TVs and over the Internet at no additional charge," which it called "quite plainly beneficial for consumers." TW added that it would continue to pursue other ways to distribute content over the Internet to people, whether or not they subscribe to a video service.

Still Going: **Cablevision** and **Scripps**' standoff continued Mon, as the programmer rolled out print ads in area newspapers, began radio ads and prepared to run TV ads starting Tues. Cablevision's latest statement: "Scripps Networks pulled its channels off Cablevision, we didn't. We have called upon Scripps Networks to put the channels back on and negotiate, but they have refused. Scripps wants a $20mln rate increase, from Cablevision and our customers, that's not 'pennies.' as

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they claim. The channels where HGTV and Food Network appeared on Cablevision remain available, and if Scripps really cared about their viewers they would put their programming back on and negotiate a new agreement." Scripps has been very vocal about seeking an increase for Food, but this spat is a new frontier as it marks the 1st time Scripps Nets have gone dark. Scripps maintains that it is asking CVC to pay the same price as everyone else, and CVC counters that the programmer is seeking a more than a 200% fee increase. While the MSO has described complaints as "modest," Scripps says there are a lot of unhappy customers. "2% of their 3mln, which would be 60K people, are in the habit of watching those 2 networks every evening in primetime," said *John Lansing*, evp, Scripps Networks Interactive and pres of the company's lifestyle media division, Scripps Networks. "And it isn't the same 60K every night. Our cume across the country approaches 70mln every month—the number of people in a month that would sample our network. If you look at Cablevision's 3mln, and account for the 60K that watch our channels every night and the cume, which would presume that 70% of all of Cablevision subscribers sample our networks, I would suspect they are getting a pretty loud and vocal reaction. And from what I'm reading, they truly are." **Pali's** *Rich Greenfield* projects Cablevision would be able to lose as many as 39K subs (1.3% of its sub base) and still break-even on the loss of Food and HGTV (that's assuming a 100%-200% price increase in '10—though the increase probably would occur over time). Meanwhile, on the same day that the *NY Times* ran a front-page story about **Time Warner Cable's** annual price hike, **Sanford Bernstein's** *Craig Moffett* notes that all the major pay TV providers are enacting annual video price increases and passing through programming increases. "This year's annual round of price increases is another reminder that competition within the Pay TV group remains restrained," a research note said. "While programming cost increases may restrain margins, higher price increases mean potential upside to ARPU, EBITDA, and free cash flow." -- Talks are continuing with Time Warner Cable, which has an extension for Food and **GAC**. Lansing said things are "progressing very positively, and I'm very optimistic."

How Much? The Mon morning quarterbacking has begun in earnest, with analysts throwing out numbers on **Fox-Time Warner Cable**. **Pali's** *Rich Greenfield*'s guess is that Fox was willing to reduce its demand for cable network distribution and sub fee growth at **FX** and the RSNs in return for cash retrans for Fox that averages north of 50 cents/sub/month over a 4-6 year deal. He predicts fees are below 50 cents for '10 but may approach 75 cents in the final year of the deal. Should the overall deal translate to an increase in fees per TWC sub in impacted markets of between 25-75 cents, it would reduce TWC '10 EBITDA by $12.6mln-$37.8mln, **Collins Stewart** said in a research note. The firm noted that TWC would most likely pass on some of the increase to subs (ie, if it passed on 50%, it would translate to a reduction of $6.3mln-$18.8mln).

5Qs with Ensequence's Peter Low: *Interactive TV finally seems to be emerging, so we asked Peter Low, pres/CEO of iTV enabler Ensequence, what's ahead.* **Why do you believe 2010 will be a breakout year for iTV?** A platform that can enable interactivity–namely EBIF–is finally reaching critical mass. The six Canoe partners are aiming to have as many as 25 million households ready to run EBIF applications in the foreseeable future. To take advantage of that critical mass, we have to make the creation and deployment of ITV simple and scalable, which is where Ensequence comes in… The next 12 to 18 months will be the time we all will look back on 20 years from now as the coming of age of iTV. **What about programmers who want to customize iTV experiences, making them unique?** For tentpole content, many of our customers have expressed interest in custom iTV experiences that enable them to leverage their most important content properties to the fullest extent with a unique look and feel… beyond what a template offers. We call this approach to iTV the hybrid template/custom strategy. **When will cable operators embrace interactive TV?** It's happening now… Historically, there have been three impediments to implementing iTV: no technology platform and scale; no business model; and the sheer complexity of creating one interactive TV experience for every cable set-top box and user agent. EBIF fixes the platform issue; and Canoe is creating the business model. We feel we address the complexity and scale issue. **What about operators' local inventory?** We will be helping operators to embed interactivity in their LAS inventory, which will drive the effectiveness of advertising and therefore ad sales revenue... The same can be done for cross-channel advertising, making the distributor's local inventory—which is one of their chief marketing assets—more powerful and effective. **Tell us about early results from your work with History.** A&E's Mark Garner recently stated that iTV experiences we created for History contributed to ratings increases of 15 to 20 percent. We also consistently see opt-in rates for interactive ads at two to three percent, and as high as 8 percent, with viewers watching ads for two to four minutes depending on the interactive features offered in the ads. This is because 20 to 30 percent of viewers with access to interactivity–and sometimes as many as 50 percent—use it for 15 minutes per hour on average. Consumers love this stuff.

BUSINESS & FINANCE

Competition: **Sinclair** said its 4Q retrans rev will now total approx $154mln, an improvement over the broadcaster's previous guidance of $143.3-$146.3mln and "only" 6.5% lower than a yr ago. -- **DISH** exclusively bowed Russian family ent channel **CTC**, available for $33/ month as part of the DBS op's Russian Mega Pack.

In the States: **Nat Geo**'s HH delivery now exceeds 70mln homes, an increase of more than 500K since last month. -- **Google** community affairs chief *Matt Dunne* is running for governor of VT, with his campaign centered on launching broadband Internet access across the state.

Programming: **Comedy Central** cancelled its record-breaking series "The Jeff Dunham Show," but continues in a multi-platform deal with the comedian that includes a live tour, stand-up special, DVDs and consumer products. The net gave no reason for the cancellation.

Business/Finance: **Cisco** led a $27.5mln Series C financing round for **Quantcast**, whose media program offers a standardized means to measure organize, buy and sell real-time audiences, all based on the distinctive characteristics of a marketer's proprietary customer data.

Editor's Note: The nomination deadline for the ***CableFAXIES*** Awards is Feb 5. More info at www.cablefaxiesawards.com.

CableFAX Daily Stockwatch

Company	01/04 Close	1-Day Ch
BROADCASTERS/DBS/MMDS		
BRITISH SKY:	36.40	0.18
DIRECTV:	33.74	0.39
DISH:	21.18	0.41
DISNEY:	32.07	(0.18)
GE:	15.45	0.32
NEWS CORP:	16.31	0.39
MSOS		
CABLEVISION:	26.46	0.64
COMCAST:	16.97	0.20
COMCAST SPCL:	16.06	0.14
GCI:	6.65	0.27
KNOLOGY:	11.05	0.13
LIBERTY CAPITAL:	24.72	0.84
LIBERTY GLOBAL:	22.00	0.11
LIBERTY INT:	11.16	0.32
MEDIACOM:	4.82	0.35
RCN:	10.98	0.13
SHAW COMM:	20.66	0.09
TIME WARNER CABLE:	42.29	0.90
VIRGIN MEDIA:	17.46	0.63
WASH POST:	442.06	2.46
PROGRAMMING		
CBS:	14.25	0.20
CROWN:	1.44	(0.01)
DISCOVERY:	31.00	0.33
GRUPO TELEVISA:	21.15	0.39
HSN:	20.62	0.43
INTERACTIVE CORP:	20.51	0.03
LIBERTY:	37.18	0.83
LIBERTY STARZ:	46.94	0.79
LIONSGATE:	5.98	0.17
LODGENET:	5.40	(0.13)
NEW FRONTIER:	1.89	0.00
OUTDOOR:	5.83	0.03
PLAYBOY:	3.27	0.07
RHI:	0.29	(0.01)
SCRIPPS INT:	41.91	0.41
TIME WARNER:	29.42	0.28
VALUEVISION:	5.25	0.45
VIACOM:	31.70	0.20
WWE:	15.60	0.27
TECHNOLOGY		
3COM:	7.55	0.05
ADC:	6.58	0.37
ADDVANTAGE:	2.01	0.04
ALCATEL LUCENT:	3.54	0.22
AMDOCS:	28.74	0.21
AMPHENOL:	45.94	(0.24)
AOL:	23.91	0.63
APPLE:	214.01	3.28
ARRIS GROUP:	11.42	(0.01)
AVID TECH:	13.13	0.37
BIGBAND:	3.47	0.03
BROADCOM:	32.24	0.77
CISCO:	24.69	0.75
CLEARWIRE:	7.35	0.59
COMMSCOPE:	27.12	0.59
CONCURRENT:	3.99	0.03
CONVERGYS:	10.94	0.19
CSG SYSTEMS:	19.70	0.61
ECHOSTAR:	20.49	0.35
GOOGLE:	626.75	6.77
HARMONIC:	6.56	0.24
INTEL:	20.88	0.48
JDSU:	8.46	0.21
LEVEL 3:	1.61	0.08
MICROSOFT:	30.95	0.47
MOTOROLA:	7.97	0.21
OPENTV:	1.38	0.02
PHILIPS:	30.83	1.39
RENTRAK:	17.99	0.32
SEACHANGE:	6.75	0.19
SONY:	30.02	1.02
SPRINT NEXTEL:	3.90	0.24
THOMAS & BETTS:	36.17	0.38
TIVO:	10.63	0.45
TOLLGRADE:	6.27	0.16
UNIVERSAL ELEC:	23.84	0.62
VONAGE:	1.46	0.06
YAHOO:	17.10	0.32
TELCOS		
AT&T:	28.58	0.55
QWEST:	4.26	0.05
VERIZON:	33.28	0.15
MARKET INDICES		
DOW:	10583.96	155.91
NASDAQ:	2308.42	39.27

EYE ON DIGITAL

Herding Eyeballs

Cross-platform content promotion by many cable nets appears to help place TV viewership and online uniques by and large on like tethers, according to a parsing of **Nielsen** and **comScore** data. But meantime, linear audience changes show no direct correlation to users' avg stay length at channel-dedicated Web sites, and vice versa. Genre type, program time, target audience and intensity of cross-platform thrust are among the likely causal factors of similar usage patterns across TVs and online, platforms that may grow increasingly correlated as TV Everywhere concepts beyond **Comcast**'s Fancast Xfinity TV come to market and ratings services begin to more effectively integrate usage/viewership data. But for now, however, only uniques appear to move in tandem with linear viewership—yet even that relationship isn't a foregone conclusion.

Take the Oct data covering **TNT** and **TBS**, for example. According to Nielsen, TNT's total prime viewership dipped 18% in the month versus Sept while TBS' jumped 109%. Yet as uniques at TNT.tv fell 24% in the month and TBS.com's rose 14%, according to comScore—with both results perhaps expected based on viewership—TNT.tv's users increased their avg stay in Oct by 6.6% as surfers at TBS.com decreased their avg stay by 13.2%.

There's more. **ESPN** (-5%), **Fox News** (-9%), **HGTV** (-15%) and **USA** (-5%) all suffered month-to-month prime audience declines in Oct and, not surprisingly, dips in monthly uniques to their Web sites as well. Though not well proportioned, the nets' respective percentage changes in Oct uniques tallied -4%, -1%. -24% and -16%. Conversely, **The Weather Channel** and **Food Net** posted respective prime viewership gains of 8% and 6%, plus increases in uniques of 3% and 10%. **ABC Family** bucked the overall positive-positive/negative-negative uniques trend by posting a 6% gain in viewership but a whopping 41% decline in uniques.

As with the **Turner** twins (see above), neither the equal nor the minus signs related to avg stay/user for various net sites match up with viewership as uniques data largely do.

ABC Family.com users, for example, loitered at the site for an avg of 6.8min in Oct, down 42% over Sept. That means both uniques and avg stay dropped by more than 40% at the site in Oct as the net was garnering more viewers during the same time period. USA.com and FoxNews.com, meanwhile, managed to expand their avg stay metric in Oct, by 30.5% and 3.3%, respectively, even as linear viewership in the month fell 5% and 9%. ESPN.com delivered similar results, with site users lingering for 1.6% more mins in the month even as net viewership ebbed. HGTV.com posted a 23% decline in avg stay/user, a more intuitive result given its attendant dips in both viewership and uniques.

Given the varying results listed above, the fact that the combined data representing total minutes spent surfing by uniques at networks' sites during Oct defy simple projections shouldn't come as a surprise. The list of sites exhibiting uniform trending in Oct ratings, Web uniques, avg stay/user and total unique minutes features only The Weather Channel and Food Net. Weather tallied a 9% uptick in total unique mins to 595K, while Food tallied a 15% increase to 126K mins. The nets' percentage gains in the metric exceeded those achieved by either in any of the other 3 metrics.

The remaining nets, meanwhile, posted the following percentage gains or losses in Oct total unique minutes: ESPN -2%, Fox News +3%, HGTV -41%, USA +6%, TBS flat, ABC Family -64% and TNT -14%. Just 3 of the 7 nets, ESPN, HGTV and TNT, delivered growth or contraction in linear ratings to match the total uniques direction.

--*Chad Heiges*