

# CableFAX Daily™

Monday — January 13, 2014

What the Industry Reads First

Volume 25 / No. 008

## Been Duped? Sinclair, Buckeye's Retrans Spat Extends to Nonduplication

While **Buckeye Cablevision** and **Sinclair's** retransmission consent-fueled dispute wages on, the 2 are bickering at the **FCC** over nonduplication. The cable provider lost Toledo-based **NBC** affil **WNWO** on Dec 16, as an extension to its retrans consent contract expired. One day later, Sinclair filed a complaint at the FCC claiming that as of that day, and "perhaps far earlier," Buckeye failed to provide **WNWO** with non-dupe protection by broadcasting the signal of **NBC** affil **WDIV** of Detroit. It wants sanctions, including a "significant" monetary fine, against Buckeye, which is owned by **Block Comm**. Buckeye responded Jan 7, telling the FCC that the **WDIV** signal was briefly broadcast to subs due to "internal confusion" on Dec 16 when **WNWO's** signal was pulled. "The problem was corrected by Buckeye employees after only 2 hours and several hours before Sinclair raised a complaint," the operator told the Commission this week. What's more, Buckeye argued that Sinclair is trying to enforce non-dupe rights that it never properly secured. Buckeye contends that Sinclair never submitted a request for non-duplication protection from Buckeye after it closed on the purchase of **WNWO** from **Barrington** in a deal that closed in late Nov. Sinclair insists the station is covered by a request for non-dupe protection sent by Barrington in March. "The complaint seeks to rely on 1.) a non-duplication request submitted by the previous owners of **WNWO-TV** that was invalid when received [Buckeye claims Barrington asserted non-dupe rights it had not yet obtained from **NBC**]; and 2.) an affiliation agreement that does not include Sinclair as a party," Buckeye told the FCC. It wants the complaint dismissed, even though it is continuing to provide **WNWO** with non-duplication protection. Back to that Dec 17 period of **WDIV's** **NBC** signal being transmitted... Buckeye said it was set up for engineering purposes only, was never advertised to consumers and was unavailable to the 70% of subs who use a cable box. The **MVPD** argues that no sub could have accessed the channel (available only on HD without a box) without considerable effort, while Sinclair says **WNWO's** pres heard that **NBC** programming was viewable on Buckeye through a discussion on a local radio station. Guess these 2 aren't close to reaching a new retrans deal?

**In the Courts:** **Aereo's** battle against the broadcasters is going to the highest court. The Supreme Court issued an order Fri granting the petition to hear the suit, filed by broadcasters, including **Fox** and **Disney's ABC**, against the over-the-air service provider. The broadcasters asked the court in Oct to review the case after the startup scored a victory against

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**Hearst** in a MA federal court. They have asked the court to weigh in on “whether a company ‘publicly performs’ a copyrighted TV program when it retransmits a broadcast of that program to thousands of paid subscribers over the Internet.” In a statement, Aereo CEO/founder *Chet Kanojia* warned “if the broadcasters succeed, the consequences to consumers and the cloud industry are chilling.” The broadcasters are pleased to have their day in court. “We are confident that the court will recognize that this has never been about stifling new video distribution technologies, but has always been about stopping a copyright violator who redistributes television programming without permission or compensation,” the plaintiffs said in a joint statement. NAB piled on. “Enshrined in the Constitution is the concept that content creators deserve to be protected from product theft,” **NAB** head *Gordon Smith* said. Aiming to protect its network DVR services, **Cablevision** said while Aereo violates copyright rules, it’s confident that the court will invalidate Aereo without relying on the broadcasters’ “overreaching—and wrong—copyright arguments that challenge the legal underpinning of all cloud-based services.” A ruling is expected in the summer. If the court sides with Aereo, broadcasters could feel “compelled to seek a legislative fix,” giving MVPDs “leverage to extract concessions on retrans,” **Stifel Nicolaus** analysts said in a research note.

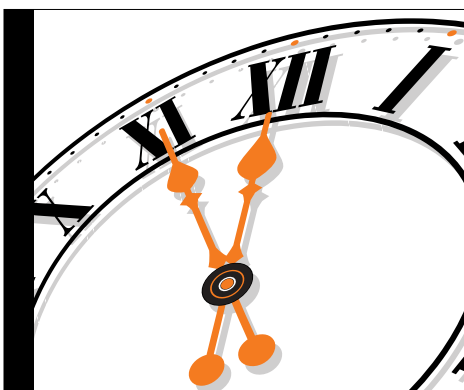
**Retrans:** Sens *Richard Blumenthal* (D-CT) and *Christopher Murphy* (D-CT) wrote to **Meredith** and **Cablevision’s** CEOs Fri, urging an end to the ongoing blackout of **WFSB**, which began Jan 3. They want the station to return local programming to CVC, including news and sports, like the Patriots playoff game, until an agreement can be reached. They cited WFSB’s status as a public trustee of spectrum. The majority of CVC’s CT subs have access to CBS through **WCBS-NY**, with the MSO balking at paying for CBS programming twice. “Although we understand that Cablevision is reluctant to pay twice for the same programming, many Connecticut customers understandably value Connecticut-based journalism and broadcasting,” the lawmakers wrote. They asked CVC to commit to refunds upon request from any Litchfield and New Haven County subs who no longer have CBS programming. Cablevision’s response focused on the request for WFSB to return programming: The senators are “absolutely right that the WFSB owners should put Channel 3 programming back on during negotiations and stop holding Cablevision customers in one area of Connecticut hostage in order to force customers in a different part of the state to pay double for CBS programming.” Asked about the refund request, CVC said it’s focused right now on reaching an agreement so that Litchfield and New Haven folks get their channel back.

**IPO: Viggle**, an app that rewards people for watching TV, filed for an IPO of common stock under **Nasdaq**, according to an **SEC** filing. The company is currently traded on the Pink Sheets. Viggle chmn/CEO *Robert Sillerman* holds more than 80% of Pink Sheet shares. According to the filing, he plans to buy some of the new shares and maintain a stake. Viggle, launched in Jan ’12, has nearly 480K monthly active users. The company ended ’13 with \$30mln of outstanding debt.

**Programming:** *Sports Business Daily* is reporting that **ESPN** and **Fox Sports** are the front runners in a new rights deal with **MLS** that would have the soccer league double its rights fees to an annual avg of \$70mln/year for at least 8 years. The report cited several sources, though cautioned that no deal was signed. Fox declined comment. ESPN said: “We are in negotiations with the league (MLS/SUM) to continue our relationship. We have nothing to announce at this time.”

**Editor’s Note:** The rest of our issue is devoted to the programming news from the **TCA** tour in L.A.

**HBO at TCA:** By now you might have heard that a **TCA** critic began the session for “Girls” (S3 premiere, Jan 12) by asking creator and star *Lena Dunham*, “I don’t get the purpose of all of the nudity on the show, by you particularly...”



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your character is often naked just at random times for no reason.” Dunham retorted quickly, “Just like humans.” That awkward moment was revived when exec prod *Jenni Konner* blasted the questioner later in the session. Nudity aside, the biggest revelation might be that Season 3 will see more growth and screen-time for Girls’ boys, Ray (*Alex Karpovskiy*) and Adam (*Adam Driver*). Ray “grows and changes the most,” Konner said. “And I think love opens up Adam...,” she added. -- A panel for **HBO’s** adaptation of “The Normal Heart” (Apr 6) elicited various interpretations about *Larry Kramer’s* play, which chronicles the HIV-AIDS crisis in the early ’80s. For dir *Ryan Murphy*, the resulting movie is about love. “It’s about people fighting for love and wanting to be treated equally,” he said. Star *Julia Roberts* said it’s about “dealing with a moment that was so desperate and mysterious... and we failed each other... [that’s] a great reminder to do better and stay together.” -- Leave it to *Mike Judge* to skewer another “workplace”—this time, the privileged, geeked out and socially challenged world of “Silicon Valley” (spring premiere), which follows a tech startup as its founders mix with eccentric billionaires. Also on trial: The self-importance of the tech community. “I mean, these guys are fundamentally changing the world, but at the same time, you know, it’s not entirely altruistic,” said exec producer/writer *Alec Berg*. “So it’s hard to listen to a guy who’s made \$7bln talking about how he’s doing it for the love of humanity.” -- **ABC’s** “Lost” creator *Damon Lindelof* gave props to cable as he discussed his new series “The Leftovers” about those left behind after 140mln people suddenly disappear from the Earth. “I think now that we’re all here together, we can definitively agree that cable is far superior to network.” The ability to do 10 eps instead of 22 shaved the fat, he said: “Therefore, you’re not needing to fill weeks of story that are non-essential. So hopefully every episode of The Leftovers will feel like it needs to exist versus it’s just this very kind of fibrous bridge that exists between two essential episodes.” -- To say *John Oliver* killed at TCA would be an understatement. The British comedian, who filled in so well for *Jon Stewart* last summer on **Comedy Central’s** “The Daily Show,” was asked if that gig helped in any way get his own show (untitled) on HBO. “I think it probably led in some way and... let’s just say, the only way.” Oliver’s method for guest hosting: “I set myself the achievable goal of just not destroying that particular franchise.” -- “Looking” (premieres Jan 19) depicts the modern gay experience through a group of gay friends living and working in San Francisco. “These are gay people, but quite quickly you forget they’re gay and it’s more their characters that kind of resonate,” said writer/director *Andrew Haigh*. These thirtysomethings have already come out, actor *Jonathan Groff* added, so the focus of the show is more about friendship and relationships. “Their problems are about everyday life,” he said.

**TCA Notebook:** **MTV2** made its **TCA** debut Fri, with svp, head of development and production *Paul Ricci* stressing that the male-focused net isn’t just “MTV too” as it features “guy-minded shows” that also target young women. “We definitely target young males, but we want young females to watch too,” he said. One example is “Guy Code,” which features lots of men doing and saying silly things—but whose viewership is 45% female. “I just like making people laugh,” said Guy Code’s *Andrew Shulz*. **MTV2** also announced that it has greenlit “Jobs That Don’t Suck” (Apr premiere), which humorously highlights little-known jobs that, well... you know. Comedian *Nick Cannon*, who hosts “Nick Cannon Presents: Wild ‘N Out,” told critics that his worse job was working at *Wienerschnitzel*, which fired him for doing standup in the drive-thru (such as impersonating *Bill Cosby*). His job is better now. “I truly believe that my vocation is my vacation,” he said. **MTV**, meanwhile, featured food competition show “House of Food” (premieres Mar 31) that involves young would-be chefs fighting with each other and taking gruff from seasoned chefs, based on the clip shown to critics. “Faking It” is about 2 high-school girls who pretend to be gay in order to be popular (yes, high school life has changed). “Tolerance is now viewed as an expected thing to have,” said creator *Carter Covington*. “Things are changing.” But “the core things stay the same,” he said. “Who am I? Who do I want to be? How do I want the world to see me?” -- **A&E** thought it was important for scripted crime drama “Those Who Kill” (Mar 3 premiere) to be serialized, the show’s producers revealed. “It’s serialized in units but it’s not entirely serialized the way ‘24’ is serialized,” said exec producer *Brian Grazer*. “But it does have a spine narrative that has an end point to it each season.” The series is shot in Pittsburgh, a choice executive producer *Glen Morgan* said was made for its “atmospheric look... Historically it was a place that had kind of been considered down and out and had something to prove in its bounce-back, which was reflective of what our characters are going through.” -- The buzz for **Lifetime** film “Flowers in the Attic” (Jan 18 premiere) has been so positive, the net already is developing the second book in *V.C. Andrews’* series, “Petals in the Wind.” The cast includes *Kiernan Shipka* of “Mad Men,” *Heather Graham* and as the evil mother and grandmother *Ellen Burstyn*. Screenwriter *Kayla Alpert* noted one of the few diversions from the novel was adding more mother-daughter material. “I really tried to flesh that out and add more of a backstory so you’d have more colors to those characters and explain why they had... this cruel symbiotic relationship.” -- One under-recognized talent featured in **TV One’s** “Unsung Hollywood” (Feb 1 premiere) is artist and activist *Pam Grier*. The fact that her mentor was *Gloria Steinham* is not surprising. But interestingly, the first feminist in her life was her grandfather. “Equality was the real purpose for me, and I translated that to film,” she told critics.

**CableFAX Week in Review**

Company	Ticker	1/10 Close	1-Week % Chg	YTD %Chg
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**BROADCASTERS/DBS/MMDS**

DIRECTV:	DTV	72.09	4.42%	43.72%
DISH:	DISH	57.21	(1.02%)	57.17%
DISNEY:	DIS	75.39	(0.95%)	51.42%
GE:	GE	26.96	(1.89%)	28.44%

**MSOS**

CABLEVISION:	CVC	16.88	(1.86%)	12.99%
CHARTER:	CHTR	136.42	2.29%	78.93%
COMCAST:	CMCSA	53.54	4.84%	43.31%
COMCAST SPCL:	CMCSK	51.47	4.68%	43.29%
GCI:	GNCMA	11.50	0.52%	19.92%
LIBERTY GLOBAL:	LBTYA	89.65	1.19%	42.39%
LIBERTY INT:	LINTA	28.52	(2.06%)	44.92%
SHAW COMM:	SJR	23.57	(1.46%)	2.57%
TIME WARNER CABLE:	TWC	133.36	(0.03%)	37.22%

**PROGRAMMING**

AMC NETWORKS:	AMCX	69.15	3.66%	39.70%
CBS:	CBS	62.99	(0.24%)	65.55%
CROWN:	CRWN	3.34	(4.84%)	80.54%
DISCOVERY:	DISCA	84.02	(5.15%)	32.36%
GRUPO TELEVISIA:	TV	31.76	6.26%	19.49%
HSN:	HSNI	60.61	(2.32%)	10.04%
INTERACTIVE CORP:	IACI	69.48	1.55%	47.08%
LIONSGATE:	LGF	30.28	(2.29%)	84.63%
MADISON SQUARE GARDEN:	MSG	56.88	(1.61%)	28.25%
SCRIPPS INT:	SNI	82.01	(3.49%)	41.59%
STARZ:	STRZA	30.41	3.47%	0.00%
TIME WARNER:	TWX	66.19	(3.61%)	38.39%
VALUEVISION:	VVTV	6.88	6.34%	282.22%
VIACOM:	VIA	85.89	(1.38%)	58.26%
WWE:	WWE	17.03	7.11%	115.84%

**TECHNOLOGY**

ADDVANTAGE:	AEY	2.91	15.48%	46.23%
ALCATEL LUCENT:	ALU	4.32	(3.57%)	210.79%
AMDOCS:	DOX	41.39	0.53%	21.77%
AMPHENOL:	APH	89.34	1.45%	38.08%
AOL:	AOL	45.24	1.89%	52.79%
APPLE:	AAPL	532.94	(1.49%)	0.14%
ARRIS GROUP:	ARRS	24.62	0.00%	64.79%
AVID TECH:	AVID	7.35	(10.37%)	(3.03%)
BLNDER TONGUE:	BDR	0.96	12.94%	(16.52%)
BROADCOM:	BRCM	28.91	(0.21%)	(12.95%)
CISCO:	CSCO	22.22	1.09%	13.08%
CONCURRENT:	CCUR	7.94	(1.49%)	38.33%
CONVERGYS:	CVG	21.67	3.09%	32.05%
CSG SYSTEMS:	CSGS	29.93	2.57%	64.63%
EHOSTAR:	SATS	50.71	1.46%	48.19%
HARMONIC:	HLIT	7.29	0.55%	43.79%
INTEL:	INTC	25.53	(0.97%)	23.81%
JDSU:	JDSU	12.25	(5.99%)	(9.26%)
LEVEL 3:	LVLTL	34.00	4.29%	47.12%
MICROSOFT:	MSFT	36.04	(2.36%)	34.93%
MOTOROLA MOBILITY:	MMI	14.44	(1.1%)	(62.78%)
NIELSEN:	NLSN	44.11	(3.48%)	44.20%

Company	Ticker	1/10 Close	1-Week % Chg	YTD %Chg
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RENTRAK:	RENT	37.87	2.02%	94.30%
SEACHANGE:	SEAC	11.96	0.50%	23.68%
SONY:	SNE	17.80	3.61%	58.93%
SPRINT NEXTEL:	S	9.46	(4.83%)	66.84%
TIVO:	TIVO	13.49	1.43%	9.59%
UNIVERSAL ELEC:	UEIC	37.66	0.88%	94.63%
VONAGE:	VG	3.30	0.30%	39.24%
YAHOO:	YHOO	41.23	1.83%	107.19%

**TELCOS**

AT&T:	T	33.62	(4.43%)	(0.27%)
VERIZON:	VZ	47.75	(1.38%)	10.35%

**MARKET INDICES**

DOW:	DJI	16437.05	(0.2%)	25.43%
NASDAQ:	IXIC	4174.66	1.03%	38.26%
S&P 500:	GSPC	1842.37	0.60%	29.18%

**WINNERS & LOSERS**

**THIS WEEK'S STOCK PRICE WINNERS**

COMPANY	CLOSE	1-WK CH
1. ADDVANTAGE:	2.91	15.48%
2. BLNDER TONGUE:	0.96	12.94%
3. WWE:	17.03	7.11%
4. VALUEVISION:	6.88	6.34%
5. GRUPO TELEVISIA:	31.76	6.26%

**THIS WEEK'S STOCK PRICE LOSERS**

COMPANY	CLOSE	1-WK CH
1. AVID TECH:	7.35	(10.37%)
2. JDSU:	12.25	(5.99%)
3. DISCOVERY:	84.02	(5.15%)
4. 21ST CENTURY FOX:	33.46	(4.94%)
5. CROWN:	3.34	(4.84%)



**Well-rounded.\***

\*Coming soon from CableFAX.