

# CableFAX Daily™

Wednesday — January 15, 2014

What the Industry Reads First

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## Net Neutrality: What's Next?

The DC Circuit of Appeals ruled in the ISPs' favor, again: A 3-judge panel struck down key parts of the FCC's Open Internet Order Tues, remanding the anti-discrimination and anti-blocking rules back to the agency for "further proceedings consistent with this opinion." In '10, the same court upheld **Comcast's** view that the FCC lacks the authority to enforce net neutrality rules. Despite not participating in the appeal like **Verizon** did, cable scored a major victory with the ruling, which would give ops greater flexibility to negotiate agreements with the likes of **Netflix**, we were told. However, the judges left the disclosure (or transparency) rules intact, meaning ISPs would still need to disclose info regarding their network management practices, performance and the commercial terms of their broadband services. The panel also suggested the agency still has "general authority" to regulate Internet access, which was emphasized in Commission chmn *Tom Wheeler's* brief statement. As for next steps, the agency is leaving its options open, including appeals, Wheeler said. Though asking the DC Circuit to revisit the decision or bringing the case to the highest court has some political appeal, the chance to succeed is slim, observers said. A more realistic option is to live with a narrower set of rules that require disclosure of key terms, along with the prohibition of blocking. That would still benefit cable, which had serious concerns about non-discrimination rules, we were told. The only other option for the Commission is Title II reclassification, which would provide the FCC the legal authority to enforce net neutrality. However, it would trigger "an enormous political fight" as Republican legislators as well as cable and telcos have signaled such move would be "World War III," one observer said. Taking on such a tough fight would be distracting for newbie Wheeler, who has other priorities like the spectrum auction. Cable expects business-as-usual post-ruling. "While we fully expect some to rush to judgment about the fate of the open internet, we should remember neither the adoption of the Open Internet Order, nor its partial repeal, has led or will lead to significant changes in how ISPs manage their networks," **NCTA** pres/CEO *Michael Powell* said in a statement. **ACA's** members had been operating under the FCC's '05 Open Internet principles, and the ruling won't change that, **ACA** pres/CEO *Matt Polka* said. Comcast agreed in the **NBCU** transaction order to abide by the Open Internet rules for 7 years even if the rules were modified by the courts. "We remain comfortable with that commitment because we have not—and will not—block our customers' ability to access lawful Internet content, applications, or services," said evp *David Cohen* (See more reactions at **CableFAX.com**). Despite the seemingly rosy outlook for cable, the ruling did give the FCC "broad authority" to regulate Internet traffic, allowing it to potentially get into new areas like online privacy, an observer said. In addition, though the rules would allow cable ops to negotiate with OTT players like Netflix, the FCC can still police the deals. For the voice side of cable business, the ruling means the FCC can't require mandatory interconnection or regulate inter-carrier compensation for VoIP.

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**SPORTSMAN CHANNEL**

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**Charter-TWC Fun:** In case you've missed the whisperings (shouts?) over the past 6 months, **Charter** really, really wants **Time Warner Cable**. Charter mgmt's conference call Tues afternoon with analysts was its big chance to convince shareholders that it could do a better job running the MSO. COO *John Bickham* was the heavy, criticizing how TWC has operated for the past half-decade. He called out TWC for having the lowest customer satisfaction rankings in the industry. Of course, he didn't mention that a '13 **J.D. Power** study that has TWC in last place in the North Central region and South region has Charter in second-to-last place (the 2 flip-flopped places in the West, with TWC with a slight lead). A lot of Bickham's indictments centered on TWC not being all-digital (Charter has targeted the end of this year for completing its all-digital initiative). By not moving faster on digital, he argued that TWC has allowed its video product to become inferior with 50 analog channels "clogging" the network and TV being directly wired to the network. "When they are delivering digital pictures... they don't even carry all the content in HD," he said. He suggested the bandwidth drain from analog is why TWC has been reluctant to increase its standard offer Internet speeds. Other choice pokes include Bickham accusing TWC of "nickel-and-dime charges" for things such as monthly broadband modem fees. TWC refrained from swatting at all those assertions, issuing a terse statement after the call ended: "There was nothing in Charter's presentation and call today that changes the fact that its proposal is grossly inadequate. We have engaged with Charter, but Charter is not prepared to pay for a one-of-a-kind asset that [CEO] *Tom Rutledge* referred to today as the biggest and best M&A option available. We are confident in our standalone plan and we are not going to let Charter steal the company." And there's the multi-billion question, how much will Charter up the bid? "At this moment, this is our plan," Rutledge said, though he noted that **Liberty Media** is willing to kick in more capital. Charter is on its own turnaround path, with Rutledge telling investors in the MSO's 3Q earnings call that it is rebuilding the brand after having had an inferior video product. And while the big dance is going on over TWC, he said Charter isn't backing down from its goals, which include a rebrand as "Charter Spectrum" for its digital and broadband service. "Charter is pursuing its main objective of taking care of Charter's business today... Nothing in this proposal impacts [that]," Rutledge said. Cruise over to Charter's investor website for details on its plan for a merged company. It said it conservatively estimates \$500mln in annual synergies growing to \$750mln over time.

**WWE:** The move to launch OTT net **WWE Network** has concerned some MVPDs, including **DirecTV** and **DISH**. "Just as others in the industry have publicly stated, we will re-evaluate our relationship with WWE," DISH said in a statement. We heard a few other cable MSOs shared the same sentiment. Having said that, ops like **Verizon FiOS** expect to continue working with WWE. [Read the full story at [CableFAX.com](http://CableFAX.com)].

**The Street's Take:** Here's a sampling of what financial analysts had to say about **Charter's** bids for **Time Warner Cable**. **UBS:** "We believe CHTR management hopes to use this process to reach a negotiated deal and avoid an eventual proxy fight." **S&P:** "Despite a possibly compelling case for the combination of the 2nd and 4th largest US cable operators, in what could shape [up] as another radically transformational deal for US pay TV landscape, we see major hurdles on valuation, financing and regulations, but perhaps not ultimately insurmountable." **Northland:** "CHTR is leaving a relatively low bar for CMCSA to make an offer... Although we don't expect CMCSA would want all of TWC (and we don't believe the **FCC** would allow a full

## Who deserves to appear in CableFAX's annual power player list?

# 100

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merger of the two), CMCSA might be interested in keeping the NYC, LA and Virginia systems (and reselling much of the rest).” **Wells Fargo**: “If history is any indication, we believe CHTR may raise its bid—although we don’t anticipate CHTR going all the way to TWC’s requested \$160/share given CHTR’s prior proposals of \$114, \$127 and the most recent \$132.50... We continue to believe TWC will be sold in pieces.” **Macquarie Capital**: “We’re not ruling out a bidding war just yet—we think Comcast could be interested in TWC’s NY-LA footprint to complete its portfolio of dominating the top DMAs in the US.”

**Storm Front**: As expected, 12:01am Tues market the end of **Weather Channel** on **DirectTV**, at least for now, with the 2 sides unable to agree to terms on a renewal agreement. The dispute has opened the window for rivals to try and dethrone the weather king. **AccuWeather** announced it will launch a 24/7 network in 3Q—with the company saying it sped up the announcement in light of the DirecTV-Weather skirmish. **WeatherNation** has benefited from the dust-up, with DirecTV launching the net last month. AccuWeather’s hyping that it will have highly localized and customized forecasts, one of the criticisms of WeatherNation (though it says it’s working on it). Weather Channel has argued that it’s so valuable that it’s dangerous to remove it, painting WeatherNation as sort of a poor man’s version. “This reckless move by DirecTV will have an impact on our role as part of the national safety and preparedness fabric of our country at a time when the volatility and frequency of weather events seems to be increasing,” Weather Co chmn/CEO *David Kenny* said after the channel was removed. DirecTV continues to push that there are plenty of ways for its customers to get weather coverage—“free of reality show clutter... The Weather Channel does not have an exclusive on weather coverage—the weather belongs to everyone,” chief content officer *Dan York*, adding that the satcaster is discussing a deal to return the net at “the right value.”

**FX at TCA**: It’s rare if not unprecedented for one cable brand to get an entire day at TCA, but **FX Networks** is no ordinary cable brand. That’s largely because of CEO *John Landgraf*’s seemingly paradoxical penchant for reading every script while also giving enormous creative freedom to showrunners. But as usual, Landgraf didn’t sugar coat the TV business for critics, telling them that advertising remains the biggest challenge. “We and other channels are losing as much as 40 percent of ad sales revenue on some of our most valuable series” because advertisers don’t pay for Live +7, he said. “We need to find new opportunities to mitigate those losses, and we’re doing that.” One part of that strategy was FX Nets’ announcement at TCA of its new FXNow TV Everywhere service, which can be monetized separately from the linear nets because of in-season stacking rights embedded in **Fox**’s recent TVE deals with distributors. He specifically noted Fox’s deal with **Comcast** from last year as “a really big breakthrough” that will help preserve the ecosystem around the whopping \$56 billion per year that MVPDs pay for entertainment content. “You’re watching the difficult throes of an ecosystem in the process of evolution,” he said, noting that aggregators like **Netflix** and **Amazon.com** will continue to thrive even as TVE gets its sea legs over the next year. As for FXNow, the app includes content from **FX**, **FXX** and **FXM** with live streaming capability coming on board at some point in ’14. The app is initially for iOS devices and available to approx 50% of FX homes, including **AT&T U-verse**, **Cablevision**, **Comcast**, **Suddenlink**, **WOW!** Availability for Android, Xbox 360, **Roku** and **Samsung** devices will come in 2Q of ’14. In addition to original series, FXNow also will feature 45-60 movie titles per month, with 5 available to subscribers of FX and the remaining titles available to FXM subscribers. In aggregate, FXNOW will present at least 165 titles in ’14 and more than 200 titles in ’15 and beyond. Landgraf also mused about the competitive environment for eyeballs but said it hasn’t worried him much. “Somehow our shows seem to keep hitting all-time highs year after year,” he said, arguing that it’s no longer about the relatively short-term benefits of live viewing. It’s about long-tail monetization over several years. “Now I think we’re making shows for posterity,” he said. “And that’s the thing that’s most exciting to me about television, is that now television seems

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like a medium that has a long life. And, therefore, it's worth making things that not only galvanize an audience the night they air, but might be useful to someone 15 or 20 years later. And, of course, we own most of our programming, so we're benefiting from both those revenue streams. So I would be lying if I said I wasn't concerned about [competition], but somehow the cream still seems to be rising to the top and seems to be working." Meanwhile, FX announced a slew of deals at TCA, including new comedy pilot orders for "How and Why" by screenwriter *Charlie Kaufman* (*Eternal Sunshine of the Spotless Mind*, *Being John Malkovich*) and starring *Michael Cera*, along with an unnamed pilot that will be co-written by *Zach Galifianakis* and current FX star *Louis C.K.*—the 1st order under an overall deal between **FX Productions** and Louis C.K.'s production company **Pig Newton**. FX Productions has 12 comedy pilots currently in production. -- With a full day at its disposal, FX Nets was still showcasing its many shows at presstime, having already held sessions for new animated comedy "Chozen" (premiered Mon) about a gay rapper who tries to make it in hip-hop after a decade in prison, as well as returning shows like "The Americans," "Archer" and "Legit." It also gave critics a taste of "Ali G: Rezurection," an acquisition of the library of *Sacha Baron Cohen's* irrepressibly clueless Ali G. character from both the **HBO** series aired in America and the British TV version that ran only in the U.K. FX will showcase several big new series "Fargo" (based on the movie, Apr 15 premiere), "Tyrant" about the Americanized son of a Middle Eastern dictator (conceived by "Home-land" creator *Gideon Raff*, summer premiere) and "The Strain" (July premiere), a horror thriller by *Guillermo del Toro* and *Carlton Cuse* that Landgraf said "will redefine the vampire genre."

**On the Hill:** Hill reactions to the Open Internet ruling mostly fell along party lines. Senate Commerce chmn *Jay Rockefeller* (D-WV) was disappointed that the court "did not unequivocally uphold the **FCC's** net neutrality protections." But he's pleased that the court recognized the agency has the authority to issue "necessary consumer protection rules for broadband networks." He urged the FCC to "consider all viable options" and pledged to assist the Commission. Republicans claimed victory in the ruling. Sen *Dean Heller* (R-NV) applauded the decision, though he urged Congress to step instead of leaving internet policy matter to the FCC. In a joint statement, House Commerce chmn *Fred Upton* (R-MI) and tech subcmte head *Greg Walden* (R-OH) said the ruling vacates the FCC's "attempt to go back on this policy and to smother the Internet with rules designed for the monopoly telephone network."

**Programming:** **Starz** is opening up the 1st ep of "Black Sails" to multiple platforms for its most comprehensive sampling and marketing campaign to-date. Starting Sat, a full week ahead of its linear premiere, folks can check it out on **Amazon**, iTunes, **Machinima**, **Maxim**, **Xbox** video as well as Starz.com, Starz On Demand, Starz Play and Starz's YouTube channel and Facebook page. Several MVPDs, including **DirectTV**, **DISH** and **Comcast**, will offer screenings. Many affils will offer consumers the flexibility to watch either the TV-MA or TV-14 version of the free ep, including **Charter** and **Time Warner Cable**.

**Editor's Note:** Time's running out to submit your free nominations for the **CableFAX 100** magazine. Help us decide who make up this year's top 100 cable execs. Enter at CableFAX.com by Jan 24.

**Fantasy Island:** **Anthem Media** plans to launch **Fantasy Sports TV Network** on Mar 4, offering interactive fantasy sports programming on traditional, OTT, online and mobile video platforms. Anthem is behind the **Fight Channel** and is a significant investor in the **Pursuit Channel**. The net will feature a daily studio show as well as a radio simulcast of SiriusXM's "RotoExperts in the Morning." In Nov, cable industry vet *Steve Friedman* and investor *Jeff Sagansky* announced **Fantasy Sports Zone TV**, devoted to professional and college fantasy sports, including baseball, football, basketball, **NASCAR**, hockey and golf. FSTV plans to launch this spring, according to its website, and will feature prominent bloggers and fantasy sports experts as part of its daily live programming.

**Turner at TCA:** **CNN** chief *Jeff Zucker* may have scotched reports of *Jay Leno* coming aboard for a late-night gig "anytime soon... it's just not where our priorities are." But for Zucker, part of the CNN resurrection formula is continuing to add series and documentaries. In '14 CNN will carry 8 series, up from 3 in '13. Joining *Anthony Bordain* and *Morgan Spurlock* will be primetime series from *Robert Redford* and *Tom Hanks* "and a full slate of films." But, "We will never ever get out of making sure we are there for news... primetime will continue to be the home of news and talk," he promised. And "first and foremost" Zucker wants "CNN [to] remain true to its news and journalistic background." Another element, he said, is adding "a little bit more passion" to CNN programming. -- Actor *Eric Dane* will helm **TNT's** "The Last Ship" this summer (June premiere) as captain of a Navy destroyer searching for a vaccine amidst a deadly pandemic. As far as narrative structure, each episode will have "its own beginning, middle, and end," according to executive producer *Hank Steinberg*, but also will have "a serialized arcing nature to

# BUSINESS & FINANCE

it because they have a mission," he said. Also arriving in June on TNT is "Murder in the First," a crime drama set in San Francisco that follows a pair of homicide inspectors. Executive producer *Steven Bochco* told critics that "this is really not just a cop show. It's a cop show, it's a legal drama, and then it's a courtroom drama," he said. "What we've tried to do is to pretty much encompass the whole of the criminal justice system." He also said he likes cable's shorter seasons. "Ten episodes or 12 episodes, you know, seems to me to be an ideal length for this format," he said. "It really eliminates the necessity of filler." -- *CeeLo Green's* "The Good Life," coming to **TBS** this summer, follows the entertainer and his band of hip-hop cohorts, known as "The Goodie Mob." Genre-speaking, it isn't a straight scripted or straight unscripted show. "It's reality-based," said Green. "It's like, semi-scripted. What I wanted to do was emulate something more authentic... I didn't want to do another reality show, not per se."

**People:** **SCTE** promoted *Bill Schankel* to vp, marketing. -- **ESPN** announced that it's consolidating its programming and production depts, putting *John Wildhack* in the chair as evp, programming and production, reporting to ESPN pres *John Skipper*. *Norby Williamson* will assume the new role of evp, production, program scheduling and dev.

## CableFAX Daily Stockwatch

Company	01/14 Close	1-Day Ch	Company	01/14 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
BROADCASTERS/DBS/			HARMONIC:	7.34	0.09
21ST CENTURY FOX:	32.30	(0.05)	INTEL:	26.51	1.01
DIRECTV:	71.02	0.31	JDSU:	12.08	0.08
DISH:	56.11	0.16	LEVEL 3:	33.82	0.69
DISNEY:	74.45	1.18	MICROSOFT:	35.78	0.80
GE:	26.97	0.24	MOTOROLA MOBILITY:	14.46	0.15
<b>MSOS</b>					
CABLEVISION:	16.94	0.23	NIELSEN:	44.37	0.69
CHARTER:	137.34	3.12	RENTRAK:	36.44	(0.19)
COMCAST:	52.81	0.65	SEACHANGE:	12.26	0.28
COMCAST SPCL:	50.79	0.55	SONY:	17.53	(0.02)
GCI:	11.25	0.06	SPRINT NEXTEL:	9.17	0.08
LIBERTY GLOBAL:	88.99	(0.77)	TIVO:	12.97	0.13
LIBERTY INT:	28.14	0.39	UNIVERSAL ELEC:	36.98	1.10
SHAW COMM:	22.76	(0.54)	VONAGE:	3.63	0.35
TIME WARNER CABLE:	136.00	3.60	YAHOO:	41.14	1.15
<b>PROGRAMMING</b>					
AMC NETWORKS:	69.46	0.28	<b>TELCOS</b>		
CBS:	60.65	(0.29)	AT&T:	33.48	0.18
CROWN:	3.20	(0.06)	VERIZON:	47.08	0.05
DISCOVERY:	82.64	1.20	<b>MARKET INDICES</b>		
GRUPO TELEVISA:	31.52	0.11	DOW:	16373.86	115.92
HSN:	59.23	0.19	NASDAQ:	4183.02	69.71
INTERACTIVE CORP:	72.02	3.06	S&P 500:	1838.88	19.68
LIONSGATE:	30.45	0.97			
MADISON SQUARE GARDEN:	56.97	0.32			
SCRIPPS INT:	76.19	(0.12)			
STARZ:	29.83	(0.15)			
TIME WARNER:	65.33	(0.14)			
VALUEVISION:	6.90	0.02			
VIACOM:	84.88	0.22			
WWE:	17.50	0.63			
<b>TECHNOLOGY</b>					
ADVANTAGE:	2.93	(0.04)			
ALCATEL LUCENT:	4.36	0.04			
AMDOCS:	41.88	0.83			
AMPHENOL:	92.41	3.22			
AOL:	47.85	3.00			
APPLE:	546.39	10.66			
ARRIS GROUP:	25.32	0.61			
AVID TECH:	7.57	0.04			
BROADCOM:	29.41	0.69			
CISCO:	22.41	0.22			
CONCURRENT:	7.86	0.07			
CONVERGYS:	21.46	0.12			
CSG SYSTEMS:	29.64	0.22			
EHOSTAR:	49.66	(0.45)			
GOOGLE:	1149.40	26.42			

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