

CableFAX Daily™

Thursday — January 16, 2014

What the Industry Reads First

Volume 25 / No. 011

Comm Act Update: Ex-FCC Heads Differ on Reclassification, Scope of Overhaul

With 4 former FCC chairmen testifying and in light of DC Circuit's net neutrality ruling, Wed's House Commerce subcommittee hearing on updating the Communications Act was a rich one indeed. It is the 1st in the panel's effort to revamp the legislation. As we reported, if Tues' court ruling isn't overturned, the FCC's options include reworking the no-blocking rules. Tweaking the anti-discrimination rules might be a tougher. As for whether the FCC should go the Title II broadband reclassification route, as tech subcommittee chairman *Greg Walden* (R-OH) asked, the former FCCers' responses fell along party lines. Reclassification would be "a big mistake," said *Dick Wiley*, a Nixon appointee who chaired the FCC from '70 to '77. Businesses should be allowed to experiment, and going back to common carrier regulation doesn't make sense, he said. "If problems do exist then they [the FCC] can step in... The problem is sometimes we search for problems that may not exist," Wiley said. Fellow Republican and NCTA head *Michael Powell* is on the same page: "Internet would not have seen the level of growth and investment had it been classified as a common carrier," said Powell, who was appointed by *George W. Bush* and served '01 to '05. Such a move would be "exceedingly more damaging than people have realized," he said. Democratic ex-FCCers were less concerned. "The key point is the Commission has the authority to do it," said *Reed Hundt*, a Clinton appointee who served '93 to '97. Under the law, the FCC can pick specific principles governed by common carrier regulation instead of applying them all, he said. And long-time commish and former acting chairman *Michael Copps* has backed reclassification. While the law gives the FCC limited authority to regulate broadband, the agency could continue to protect the Open Internet if it reclassified broadband as a telecom service, he said. "Whatever we do, we need to do it quickly" to provide clarity and certainty, he said. However, several analysts have predicted that it's unlikely current FCC chairman *Tom Wheeler* would pull the trigger, unless no other way to preserve the Open Internet framework exists. No consensus on the Comm Act overhaul either. "My answer is: if it ain't broke, don't fix it—and the FCC is not only not broken, but also it is a model example of agency government," Hundt said. Powell and Wiley said any new laws should be flexible and technologically neutral to accommodate new technology and business models. In addition, the FCC is "one of the last regulatory agencies with the authority to affirmatively create economic conditions for markets and set terms, conditions and prices," Powell said. The role has become increasingly problematic, he said, urging minimal economic

CableFAX webinar

Thursday, January 23 | 1:30-3:00 pm ET

The OTT Opportunity: How to Partner for Profit

Far from a threat to the traditional cable ecosystem, over-the-top services are fast becoming allies in the battle for consumer eyeballs. But what does that partnership look like? How do players that seem to compete for the same audience figure out ways to cooperate?

CableFAX's January 23 webinar will show you how to:

- Integrate cable and OTT content into single devices, giving consumers the best of both worlds.
- Partner with OTT producers and content aggregators to increase buzz about TV shows and promote linear tune-in.
- Leverage social media to drive awareness of joint campaigns.
- Understand consumers' viewing habits and how OTT can improve the content discovery and navigation experience.

Register Today: www.CableFAX.com/webinars/

23252

CABLEFAX DAILY (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefax.com ● 301.354.2101 ● Editor-in-Chief: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Exec Editor: Michael Grebb, 323.380.6263, mgrebb@accessintel.com ● Editor: Joyce Wang, 301.354.1828, jwang@accessintel.com ● Sr Community Editor: Kaylee Hultgren, 212.621.4200, khultgren@accessintel.com ● Advisor: Seth Arenstein ● Assoc Publisher: Amy Abbey, 301.354.1629, aabbey@accessintel.com ● Sales Mgr: Susan Kim, 301.354.2010, skim@accessintel.com ● Dir of Market Dev: Laurie Hofmann, 301.354.1796, lhofmann@accessintel.com ● Prod: Jo Fato, jfato@accessintel.com ● Diane Schwartz, SVP Media Comms Group ● Scott Gentry, Dir of Bus Dev, sgentry@accessintel.com ● Group Subs: Laurie Hofmann, 301.354.1796, lhofmann@accessintel.com ● Sub Questions, Client Services: 301.354.2101, clientservices@accessintel.com ● Annual subscription price: \$1,599/year ● Access Intelligence, LLC, 4 Choke Cherry Road, 2nd Floor, Rockville, MD 20850

regulation and to rely on market forces wherever possible. Meanwhile, any review of the Comm Act shouldn't derail a more immediate update of video laws, Rep *Anna Eshoo* (D-CA) said. A re-write of the video law should examine the must-buy mandate imposed on cable but not satellite ops, Powell said. The mandate requires cable to carry broadcast stations with certain exceptions. Powell also wants the Congress to examine the FCC's merger review process, which sometimes allows the FCC to do things beyond its authority, he said.

At the Portals: Here we go again. The **FCC** has proposed a \$200K penalty against **Turner** for the misuse of emergency alert sounds for the 2nd time in less than 3 months. This time the culprit was a **Best Buy** ad promoting the release of an "A\$AP Rocky" album that aired on **Adult Swim**. (Now is the time when other nets might want to check to see if they ran this spot...) In Nov, the FCC proposed a \$25K fine against Turner for a **TBS** "Conan" commercial that featured audio similar to the EAS tone. Following that investigation, the programmer told the FCC it had changed its internal review practices. "Nevertheless, another Turner-owned channel, less than one year later, transmitted yet another commercial that used simulations of EAS sounds, doing so 14 times over a 6-day period," the Commission said.

In the Courts: **Cablevision** said it's suing **Meredith**, accusing the company of improperly abusing its control over **CBS** programming by blocking **WFSB** in CT's Litchfield and New Haven Counties. The station has been off CVC in those markets since Jan 3, with the 2 unable to agree to terms on a new retrans consent deal. The MSO said it's filing the suit in CT State Superior Court, seeking injunctive relief requiring that Meredith negotiate an agreement that does not condition carriage of WFSB in those counties on payment for the station in Fairfield County. It's also asking the court to direct Meredith to restore the channel until an agreement is reached. Cablevision also has asked the FCC to deny Meredith's application for a broadcast license transfer for the St Louis, MO-based CBS affiliate **KMOV**.

As the Cable World Turns: In Wed's episode of everyone's favorite cable drama, **Time Warner Cable** released its own slideshow, explaining why it's above **Charter's** marriage proposal. The **CHTR** crew should've skipped Jared and went straight to Tiffany, with **TWC** declaring that a \$160/share price reflects an 8.2X forward multiple. Charter's \$132.50 offer just doesn't have that bling at 7.2x. As for Charter's charges that **TWC** is a major DIY project, **TWC's** website slideshow played up its innovations, including 8 tech & engineering Emmys, plans to increase standard HSD speeds to 50x5 and top HSD speeds to 300x20 this year and an avg of 179 HD channels per market. Going all digital? **TWC** said it's working on it, and reminded folks it already is all digital in NYC. "Charter has made a number of claims in its public comments about **TWC** and the Charter proposal that we believe reflect a fundamental lack of understanding of our operations and strategy," **TWC** said, adding for the umpteenth time that Charter's offer is "grossly inadequate." Then the MSO donned a black leotard and heels, put its hands up and shouted "All the single ladies!" Maybe not... but a dance-off sure would spice up these dueling slideshow presentations.

Two Browns for ONE: It's the **Randy & Sandy Show** at **ONE World Sports**, with former **Outdoor Channel** affil sales head **Randy Brown** joining the net as evp, distribution. He reports to pres/CEO **Sandy Brown**—no relation, but the 2 aren't strangers, having previously worked together at **ESPN**. **Randy Brown** knows his way around an independent network. At **Outdoor**, he grew the net's distribution by 12.3mln subs while launching the brand in Europe and Asia. During his stint as **Tennis Channel's** head of distribution, he launched the channel into 18mln homes. Indie

CableFAX

Sales Executive of the Year Awards

saluting cable sales leadership

Questions: Mary Lou French at
301-354-1851; mfrench@accessintel.com

To Sponsor: Amy Abbey at
301-354-1629; aabbey@accessintel.com

ENTER TODAY!

Saluting sales excellence at cable programming networks, cable operators, and ad agencies.

The CableFAX Sales Executive of the Year Awards recognizes sales forces across cable who work tirelessly behind the scenes to drive revenue and keep our dynamic marketplace growing and business moving forward.

The winners and honorable mentions will be saluted during an awards event in June 2014 in NYC.

Entry Deadline: February 14, 2014 | Final Deadline: February 21, 2014

Visit: www.cablefaxsalesawards.com

nets “definitely face unique challenges, starting with the fact there is very little leverage or scale, but for me, that’s always what has made the success all the more gratifying,” Brown said. At ONE World, he’s selling a channel with sporting events produced in 120 countries—content that he argues appeals in particular to globally minded millennials. One big difference for Brown vs his Outdoor and Tennis days: he’s OK with carriage on a sports tier. “I spent the last 12 years working real hard to avoid sports tier carriage. Now, I’m with a network that really represents a very solid fit for sports tier packages. That’s the type of launch we’d actually celebrate here. That’s a real twist for me,” Brown said. “That said, we do think there’s a role for the network in broader packages beyond sports tiers, and in the coming weeks, we’ll have some announcements that will serve to validate the network’s appeal in broader packages.” ONE already has carriage on **DISH, Cablevision, Mediacom** and **Google Fiber**.

Center City or Comcast City? Comcast will change the Philly skyline (again), announcing it will jointly develop a 59-story skyscraper with Liberty Property Trust on Arch St. The proposed \$1.2bln Comcast Innovation Technology Center will neighbor Comcast Center and serve as a home for the company’s technologists, engineers and software architects. It’ll also become home to the operations of local broadcast stations **NBC 10/WCAU** and **Telemundo 62/WWSI** and offer space to local tech startups. The tower is expected to be the tallest building in the US outside of NY and Chicago. Oh, and those visiting won’t have to worry about cabbng it to the center. It will house a **Four Seasons** with more than 200 rooms. It’s expected to be complete in fall ’17.

CBS Exec Session at TCA: Well, it sounds like **CBS** Ent pres *Nina Tassler* isn’t exactly down with **Fox** chmn, ent *Kevin Reilly*’s enthusiastic move to scrap pilot season—something he announced earlier this week in a nod to the cable model. “Pilot season does work for us,” she said, adding that “I can appreciate where he’s coming from” in rejecting pilot season’s time-compressed nature. But she said that added pressure also creates “a sense of urgency... that does sort of give way to this creative adrenaline... Pilot season isn’t perfect, and it certainly is a very difficult time. It’s frustrating. But it’s also exciting.” She cautioned against “broad generalizations” about the TV business. “Perhaps pilot season for them is more challenging,” she said. “For us, it’s a part of the process that does work with its inherent challenges, but it does work.” Tassler did, however, agree with Reilly that advertisers should recognize viewing 30 days after live (Live + 30), a chorus that an increasing number of TV execs are joining as time shifting and binge viewing become more the norm. Noting that CBS chief *Les Moonves* has been evangelizing extended measurement for some time, Tassler said she expects advertisers to eventually acquiesce. “Whatever Leslie wants, Leslie gets,” she said. Another tidbit that might interest cable nets: Tassler’s doubling down on the summer strategy that worked so well for CBS when it debuted surprise hit “Under the Dome” last summer. This summer, the net will premiere not only S2 of Dome (June 30) but a new short-run sci-fi series called “Extant” (July 2) starring *Halle Berry*, and Tassler said “the pitches are coming in fast and furious” for other big-event summer series (all offer new summer competition to cable nets that had grown accustomed to less 1st-run competition, at least from bcst nets). Of course, it will be interesting to hear what ex-cable guys **ABC** Ent Group pres *Paul Lee* and **NBC** Ent chmn *Bob Greenblatt* think about pilot season, Live + 30, summer programming and other issues during their **TCA** executive sessions on Fri and Sun, respectively.

Press Clippings: An intriguing article in the *WSJ* reports that **Viacom** will soon launch a customizable **My Nick Jr** channel with **Verizon FiOS**. Parents can customize the shows presented on the channel by choosing themes, such as word play, and then kids can rate a show they are watching—which will alter the channel’s programming lineup.

Technology: **Suddenlink** will implement **NetCracker**’s Customer Management and CRM solution to accelerate ordering and problem resolution, improve customer service efficiency, reduce training costs and minimize overall “time to serve.” -- **SeaChange** inked a reseller agreement with TV search and recommendations provider **ThinkAnalytics** and a deal to integrate SeaChange’s Adrenalin multiscreen video platform with ThankAnalytics’ search and recommendations engine. The joint solution aims to enable video service providers and content owners to offer multiscreen TV with personalized and intuitive content discovery.

Programming: **Revolt** will debut its 1st original doc, “Wale: I am From” on Mon at 10pm ET. It features the rapper as he travels to Africa to discover his Nigerian roots. It’ll be followed by a live Ustream with Wale at 11pm.

On the Circuit: **NCTA** issued a call for presentation proposals as part of the annual CIO.IT track for CIOs and IT execs at **The Cable Show** (Apr 29-May 1, L.A.). The deadline for submission at thecableshow.com/submissions is Feb 21.

People: *JB Perrette* will move over to the intl side of the business, with **Discovery Comm** tapping the chief digital officer as the next pres of **Discovery Networks Intl**. He takes over for 23-year Discovery vet *Mark Hollinger*, who

BUSINESS & FINANCE

announced his resignation in Sept. *Sean Atkins* will serve as the acting head of Discovery's Digital business as the company performs an internal and external search for its next chief digital officer. -- **Kudos to *Tamara Franklin***, who was elevated to evp, digital for **Scripps Nets Interactive**. She'll guide the company's digital business units to coordinate overall strategy. -- **Viacom** upped *Martha Riley* to svp, music sales, with sales responsibility for the company's Music and Logo Group, which includes **MTV, MTV2, mtvU, VH1, VH1 Classic, Palladia** and **Logo**. -- **Crown Media Family Nets** announced a strategic realignment of its exec team, with *Kristen Roberts* promoted to evp, pricing, planning & rev mgmt. She reports directly to Crown pres/CEO *Bill Abbott*. In addition, *Susanne McAvoy's* role was expanded to evp, marketing, creative and comm, while *Michelle Vicary* assumes oversight of program publicity and talent relations as evp, programming and network publicity. -- **CNN** promoted *Joe Johns* to sr Washington correspondent. -- **Starz** promoted *Kevin Kasha* to the newly created post of head of acquisition. He was evp, worldwide acquisition and co-prod at **Anchor Bay**, a Starz subsidiary. -- **FCC** Republican commish *Michael O'Rielly* named *Susan Fisenne* as his confidential assistant. She was former confidential assistant to former FCC commish *Deborah Taylor Tate*.

CableFAX Daily Stockwatch

Company	01/15 Close	1-Day Ch	Company	01/15 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
21ST CENTURY FOX:	32.61	0.31	GOOGLE:	1148.62	(0.78)
DIRECTV:	72.35	1.33	HARMONIC:	7.36	0.02
DISH:	56.63	0.52	INTEL:	26.67	0.16
DISNEY:	74.28	(0.17)	JDSU:	12.06	(0.02)
GE:	27.34	0.37	LEVEL 3:	34.36	0.54
MSOS					
CABLEVISION:	16.79	(0.15)	MICROSOFT:	36.76	0.98
CHARTER:	136.04	(1.3)	MOTOROLA MOBILITY:	14.84	0.38
COMCAST:	54.07	1.26	NIELSEN:	44.27	(0.1)
COMCAST SPCL:	52.06	1.27	RENTRAK:	37.98	1.54
GCI:	11.20	(0.05)	SEACHANGE:	12.78	0.52
LIBERTY GLOBAL:	89.03	0.04	SONY:	17.41	(0.12)
LIBERTY INT:	28.40	0.26	SPRINT NEXTEL:	9.08	(0.09)
SHAW COMM:	22.62	(0.14)	TIVO:	13.02	0.05
TIME WARNER CABLE:	135.13	(0.87)	UNIVERSAL ELEC:	36.84	(0.14)
PROGRAMMING					
AMC NETWORKS:	69.89	0.43	VONAGE:	3.79	0.16
CBS:	61.00	0.35	YAHOO:	41.07	(0.07)
CROWN:	3.16	(0.04)	TELCOS		
DISCOVERY:	82.67	0.03	AT&T:	33.79	0.31
GRUPO TELEVISA:	31.48	(0.04)	VERIZON:	48.27	1.19
HSN:	58.71	(0.52)	MARKET INDICES		
INTERACTIVE CORP:	71.68	(0.34)	DOW:	16481.94	108.08
LIONSGATE:	30.32	(0.13)	NASDAQ:	4214.88	31.87
MADISON SQUARE GARDEN:	56.88	(0.09)	S&P 500:	1848.38	9.50
SCRIPPS INT:	76.07	(0.12)			
STARZ:	29.98	0.15			
TIME WARNER:	65.14	(0.19)			
VALUEVISION:	6.75	(0.15)			
VIACOM:	85.38	0.50			
WWE:	18.35	0.85			
TECHNOLOGY					
ADVANTAGE:	2.93	UNCH			
ALCATEL LUCENT:	4.37	0.01			
AMDOCS:	42.02	0.14			
AMPHENOL:	92.05	(0.36)			
AOL:	47.25	(0.6)			
APPLE:	557.36	10.97			
ARRIS GROUP:	26.61	1.29			
AVID TECH:	7.65	0.08			
BLNDER TONGUE:	0.97	-0.00			
BROADCOM:	29.48	0.07			
CISCO:	22.78	0.37			
CONCURRENT:	7.89	0.03			
CONVERGYS:	21.61	0.15			
CSG SYSTEMS:	30.56	0.92			
ECHOSTAR:	49.45	(0.21)			

WOMEN ADD VALUE TO THEIR **COMPANIES**

WICT ADDS VALUE TO **WOMEN**

Join **WICT**, renew your membership or learn more about sponsorship opportunities today at www.wict.org



Think about that for a minute...

Everyone Needs to Calm Down (Again!)

Commentary by Steve Effros

You couldn't miss the headlines. The FCC's "net neutrality" rules are struck down by the Court of Appeals; the Internet is in mortal danger! The Supreme Court accepts the Aereo case; broadcasting, and even "cloud computing" could be either gutted or saved depending on the outcome! Hooey.

Let's start with "net neutrality." The specific rules that were struck down, they in essence said, looked like a duck, walked like a duck and sounded like a duck. That "duck" was common carrier regulation. But the FCC hasn't claimed broadband providers are common carriers. So the Court threw out those rules and said if you want to regulate them like a duck, you have to establish that they're a duck first. That's not likely to happen.

Why? Because there's a lot more to "common carrier" status than just "neutrality." There are major implications with regard to services that can be offered and rates that can be charged. If the FCC, after all the private billions spent on building broadband infrastructures suddenly changes the basic regulation of that infrastructure and says it's not allowed, for instance, to offer alternative managed services (think of "Express Mail" as an analogy) then that would, I suggest, be a major "taking" of the broadband company's opportunity to use its property. The Fifth Amendment says the government can't "take" private property without paying for it. The Tucker Act applies that directly to federal agencies. Want to take some guess at what that might cost?

There's another reason why the Commission isn't likely to take the "Title II—Common Carrier" approach; there's just no evidence it's needed. There's no significant evidence that ISP's were, are or intend to "block" legal sites on the Internet. The providers have said all along that



such actions would be counter-productive from their own business point of view. No harm, no foul—and no "Title II" regulation, either.

As to the Supremes taking the Aereo case, as I've already said, this is a mistake because usually the Supreme Court would have the "final say" on issues of this kind. Either Aereo would be found compliant and could offer its service or not. The legal clerks who vet these cases may have gotten star-struck by the idea that this case, as is, would be the new "Betamax" precedent or that there was some direct relationship with anything having to do with "cloud computing," but that's not true.

The issues in the current Aereo decision, at most, have to do with the appropriate measure for granting a preliminary injunction, and whether, under copyright theories, a "performance," properly paid for, has already taken place, or not, to an individual. Remember, this is only the "copyright" part of the question. The "retransmission consent" part at the FCC has not yet been raised. While, at this point, the Supremes could gratuitously clarify what they think the terms "performance for profit" and "transmission" or "retransmission" mean, the fact still remains, regardless of what they decide, that the underlying facts of the technology related to the case have yet to be argued in court! Aereo has yet to prove that their little "dime sized" piece of metal, alone, even if under the control of an individual, receives and delivers the "performance." If not, then no matter what the Supremes say now, Aereo could eventually lose. There can't be any Supreme Court "finality" in this case at this time. They should reconsider and reject it as "improvidently granted."

Steve

T:202-630-2099
steve@effros.com

(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry)

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

100

CableFAX

Nomination Deadline: January 24

It's free to enter – Nominate your colleagues, your boss or even yourself for a coveted spot in the CableFAX 100!

Enter at www.cablefax.com/awards

