

CableFAX Daily™

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What the Industry Reads First

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Major Headway: Comcast-NBCU Deal Cleared for Takeoff

The FCC voted 4-1 to approve the **Comcast-NBCU** JV Tues afternoon, and the **Justice Dept** followed with its own green light, paving the way to completion of the transaction this month. The nods nearly complete a process that has endured for nearly a year. Fraught with myriad conditions and complexities, the FCC's approval addresses consumer access to Comcast services and public interest concerns such as diversity and localism. But conditions on program access for the online realm are "clearly the most complex," according to Comcast evp *David Cohen*. But despite Web-related conditions seeking to give online video distributors, or OVDs, equal access to Comcast-NBCU programming, Cohen said none of the FCC's conditions "will prevent us from executing on our business plans or will impair the competitiveness of any of our businesses." No one outside the FCC has seen its order yet, so following in a very capacious nut shell is a description of the online program access conditions. Through what Cohen calls a "benchmark remedy," an OVD can request Comcast-NBCU content if it has a deal with a competitive peer, but the request must cover comparable content, plus be tied to the same business model and inclusive of comparable terms and conditions. For example, if an OVD receives music video programming from **Viacom**, it cannot demand access to **USA** dramas. And if Viacom content is delivered on an electronic sell-through basis, then it can't demand comparable content for VOD use. Through a "full freight door," Cohen said an OVD that owns no programming deals can seek access to Comcast-NBCU's full linear lineup provided it agrees to pay the economic equivalent to what Comcast receives by providing the full content set to other MVPDs, including affil fees, retrans fees and ad rev. And, said Cohen, the OVD must still obtain competing content from other programmers or MVPDs for alignment. Arbitration to settle disputes in "benchmark" cases, which also apply to **TV Everywhere**-type services, have 2 stages. 1 to determine whether deals for comparable content using a comparable business model are present, the 2nd (following yes to the 1st) a baseball-style arbitration process that the FCC endeavors to complete in 90 days. The DoJ is particularly concerned about the online program access requirements assigned to the transaction, predating its approval in part on Comcast-NBCU agreeing to license programming to Web competitors and adhere to Open Internet requirements. Interestingly, FCC officials said Comcast-NBCU has made an "enforceable voluntary commitment" to the Commission's net neutrality order for 7 years—even if

The CableFAXIES awards

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

Sponsorship Opportunities:

Debbie Vodenos, Publisher at 301-354-1695; dvodenos@accessintel.com
Amy Abbey, Associate Publisher at 301-354-1629; aabbey@accessintel.com

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the order is struck down in court. Per linear program access, the FCC is requiring Comcast-NBCU to make available its cable channels in addition to broadcast and RSN programming, with arbitration available to resolve disputes (same 90-day shot clock applies). Cohen said the arbitration process is “clearer, more efficient and better defined” than in the past, includes a definition of fair market value and is binding to both parties. **ACA** and **DISH** are fans, too. “We appreciate that the FCC and the Department of Justice listened to industry concerns and placed strong conditions on the merger, particularly with respect to net neutrality and program access,” said the DBS op in a statement. “Those conditions, among others, will help protect consumers and ensure competition.” **ACA** pres/CEO *Matt Polka* applauded how the FCC “set a high standard by which future transactions involving media giants with formidable market power will be judged.” Pay-TV providers with up to 1.5mln video subs can jointly designate a bargaining agent that has the right to take Comcast-NBCU to baseball-style commercial arbitration to resolve impasses, he said, and providers with 600K or fewer subs can use baseball-style arbitration with a new asymmetrical cost recovery process in which they can recover their arbitration costs from Comcast-NBCU if they win their arbitration. Not everyone’s a fan of the FCC’s approval, however (see below).

Early Comcast-NBCU Grievances: FCC commish *Michael Copps* was the lone dissenter, arguing that the transaction gives **Comcast-NBCU** far too much power. “I searched in vain for the benefits,” said Copps of the deal. “The potential for walled gardens, toll booths, content prioritization, access fees to reach end users, and a stake in the heart of independent content production is now very real.” -- **House Commerce Cmte** chmn Rep *Fred Upton* (R-MI) joined Reps *Greg Walden* (R-OR) and *Lee Terry* (R-NE) in ripping the **FCC** for a perceived surfeit of unjust conditions. “The FCC’s efforts to circumvent both the free market and courts by railroading job- and investment-harming net neutrality provisions, as well as regulation of nascent Internet-distributed video, represent more of a Chicago-style shakedown than the thoughtful deliberation this transaction deserved,” said the trio in a statement. “We will be examining whether changes in the FCC’s transaction review process are needed as we exercise congressional oversight in the weeks to come.”

Competition: **AT&T**’s now offering TV services to small business customers, including **U-verse TV** packages starting at \$20/month for 20 channels. In non-U-verse areas, **AT&T DirecTV** plans ranging from \$35-60/month feature business viewing and private office packages and \$55-326/month packages include public viewing options. -- **FiOS TV** added Spanish-language nets **Television Dominicana**, **Supercanal** and **VeneMovies**. -- **DISH** extended its contract with **CSG Systems** for customer care and billing, print and mail services, through ’17.

In the States: **Turner** reached a deal allowing **Meredith**’s **CBS Atlanta** to manage the day-to-day ops of its broadcast station **Peachtree TV** in the Atlanta market. **Turner** maintains its ownership of **Peachtree**, which will continue to air approx 45 **Braves** games/season. -- **RRsat** inked an agreement to distribute **BabyTV**, a **Fox Intl Channel**, throughout North America.

Still Healthy: **Discovery Health** lost important vitality when **OWN** took over its channel slot Jan 1, but the net will live on as a contributing portion of **Discovery Fit & Health**, the rebranded offering of **FitTV** that will go live Feb 1 in approx 50mln homes. The net “will speak to viewers in a way that is both credible and compelling, offering unforgettable stories, authentic experts and engrossing, high-stakes circumstances,” said pres/gm *Laura Michalchysyn*, by featuring real-life dramas chronicling the human experience from the cradle to the grave, including **Health** franchises such as “**Dr. G: Medical Examiner**” and “**Untold Stories of the ER**” along with original and acquired programming.

In the Courts: **Sony Ericsson** filed a lawsuit in VA claiming copyright and trademark infringement and unfair competitive practices by **Clearwire** due to a similar logo. **Sony** said discussions of the matter with **Clearwire** have been ongoing since Jan ’10, but that **Clearwire**’s alleged infringement “has been willful, wanton, and malicious and done with the intent to deceive” as it prepares to launch mobile broadband access devices. **Sony**’s seeking an award of triple its actual damages, a portion of **Clearwire**’s profits and legal fees. -- A group of subs is suing **Insight** in federal court over rental fees paid for digital converter boxes. The group argues that the **MSO** should allow subs to purchase their own box, thus eliminating a \$16/month premium services charge.

Advertising/Marketing: **Magnaglobal** foresees 6.3% growth in TV advertising this year on a normalized basis and an overall rise of 3.1% across the media industry, excluding the impact of political and Olympic advertising.

Total advertising levels remain below those observed in '03, said Magna, with the industry's size likely to equate to \$173bn in '11 rev. Respective increases of 60.1% and 26.8% are expected for mobile and online video advertising. -- **iN Demand** partnered with **Pizza Hut** and its digital agency **Triad Digital Media** to become the featured content provider for a new online experience. Over the next several months, customers who order a pizza online will be entertained by promo content from cable's Movies On Demand service, including movie trailers, video clips, movie trivia and suggested films.

OTT: WealthTV now offers its 24/7 linear HD feed and numerous VOD titles through the **Roku** streaming player for \$3/month on a subscription basis, marking the player's 1st deployment of a HD national cable net. -- A library of pop culture videos from **TV Guide Net** is now fully searchable and viewable at **Blinkx.com**.

Retrans: Time Warner Cable reached with **Sinclair** Sat evening a retrans agreement in principle covering continued carriage of the broadcaster's 28 local stations in TWC markets, and expects to work toward a final pact in the next few days. "We appreciate our customers' patience and support throughout this negotiation, and thank them for their patronage," said TWC pres/COO **Rob Marcus** in a release.

Technology: TiVo Premiere box owners may now search content, view guides and schedule and manage recordings without interrupting programming through the **iPad**. -- **CableLabs** and **Cable Europe Labs** committed to a MOU establishing a 1-year trial program by which the pair might dev longer-term joint cooperation.

Programing: iN Demand's offering a free preview of NBA League Pass through Sun, and reduced to \$99 the half-season price for the out-of-market games package. -- **Showtime** partnered with **MLB Prod** for a series about the San Francisco Giants' players, coaches and personnel as they prepare to defend the team's World Series title during the forthcoming season. The premiere ep will coincide with the '11 season's opening week. -- **Fox Business Net** and **Tennis Channel** are teaming to trade content to bring viewers daily updates of market moves and court-side play during the '11 Grand Slam Events. The relationship kicks off this week during the Australian Open.

Ratings: While Fox News' "Hannity" (2.37mln total/600K adults 25-54) reigned Mon in the news battles, **CNN's Piers Morgan** was a close 2nd with 2.01mln total viewers/521K adults 25-54 for the *Oprah*-fueled Mon debut of "Piers Morgan Tonight." Morgan also bested **MSNBC's "The Rachel Maddow Show"** (1.11mln total/342 adults 25-54). The totals represent a 219% increase compared to CNN's Q4 average in total viewers (657K) and 206% more among adults 25-54 (170K). -- **MTV's "Skins"** debuted with a 3.4 prime (12-34), drawing 3.26 total viewers and the most prime 12-34 viewers (2.7mln) in the net's history.

5 Qs with Tatyana Ali: *As the star and a producer of TV One's first original scripted series "Love That Girl" (premiered Jan 5), Tatyana Ali says she now understands the pressure Will Smith felt when she starred with him in "The Fresh Prince of Bel-Air" in the early '90s. CableFAX caught up with her at the recent TCA tour to talk about the show, her return to TV and why there seem to be fewer African-American shows these days. Were you specifically looking for a sitcom project or did this just fall in your lap? Everyone at the time was talking about the death of the black sitcom, and how they would never exist again. And I thought that was kind of silly—especially when there's an audience that wants to see these shows. Has it felt a lot different than Fresh Prince or familiar? It's familiar in the sense of the camaraderie... But the schedule is totally different. We shoot three episodes a week instead of the traditional one episode a week... We're all just working triple time basically. Welcome to cable. One of the benefits is that we have a great deal of freedom because the network is young, and [showrunner] Bentley [Kyle Evans] is a seasoned writer who has been on other networks before... So the schedule is truncated, but creatively we're given a lot of freedom. There seem to be fewer shows about the African-American experience these days. Why? But now you have this proliferation of cable networks, and I do believe that these shows are going to help grow these networks. It's unfortunate that it comes in waves. But it does. Honestly, I don't really know the answer. But people speculate. They say there aren't enough executives. There's not enough diversity on that side of the networks and the companies that are producing and funding these shows... I think that there's truth to that too. But with niche nets, can African-American themed shows ever find the reach they once had? I think that in the future what's going to happen is that people change networks to watch shows... This show is very youthful, and I think they're going to find young people are coming to watch the show, because it has a lot of heart and sort of a dramatic base to it. There's a moral to all the stories and the episodes. I think that lends itself to all audiences culturally. So I even think that "Love That Girl" could bring [gasps jokingly] non-African-American people to the network. [An extended version of this interview is available at CableFAX.com]*

BUSINESS & FINANCE

New at CableFAXDaily.com: Don't overlook our subscriber-exclusive content at **CableFAXDaily.com**, including the Data Points section. Recent posts include the weekly top 10 VOD movie titles (**Rentrak**) and the latest Web traffic box scores from **comScore**. Meanwhile, our Extras section includes more details from **Nielsen's** recent DVR study. Check it out at http://www.cablefax.com/cfax/extras/DVRs-Did-You-Know-_44701.html.

Editor's Note: Time's running out! Make sure to nominate worthy people and campaigns for our annual **CableFAXIES** awards. Nominations are due this Fri, Jan 21. More info: <http://www.cablefax.com/cfp/awards/cablefaxies2011/>

People: **Clearwire's** board elected **John Stanton** chmn. -- Former **NBCU** exec **Randy Falco** joined **Univision** as evp/COO. Univision also promoted **Tonia O'Connor** to pres, distribution sales & mktg, expanding her responsibilities to include multiplatform video strategy companywide. -- **The Weather Channel** tapped **Indira Venkat** as svp, research. -- **Sundance Channel** named **Marco Bresaz** vp, original programming and development.

Business/Finance: **Comcast Interactive Capital** participated in a \$10mln funding round for indie film distributor **SnagFilms** and led a \$9mln funding round for **Perfect Market**, which helps content providers leverage online advertising.

CableFAX Daily Stockwatch

Company	01/18 Close	1-Day Ch	Company	01/18 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	42.62	0.11	AVID TECH:	17.95	(0.05)
DISH:	21.52	0.11	BIGBAND:	2.73	(0.08)
DISNEY:	39.39	0.10	BLNDER TONGUE:	2.55	0.05
GE:	18.60	(0.22)	BROADCOM:	47.15	(0.19)
NEWS CORP:	16.14	0.20	CISCO:	21.21	0.01
MSOS					
CABLEVISION:	34.00	0.15	CLEARWIRE:	5.91	0.22
CHARTER:	40.99	0.06	CONCURRENT:	4.94	UNCH
COMCAST:	22.78	0.06	CONVERGYS:	14.52	0.90
COMCAST SPCL:	21.48	0.14	CSG SYSTEMS:	19.07	(0.38)
GCI:	12.95	(0.22)	ECHOSTAR:	27.01	0.18
KNOLOGY:	14.81	(0.34)	GOOGLE:	639.63	15.45
LIBERTY CAPITAL:	64.98	0.73	HARMONIC:	8.30	(0.11)
LIBERTY GLOBAL:	37.35	(0.18)	INTEL:	21.08	0.00
LIBERTY INT:	16.05	(0.09)	JDSU:	16.99	(0.78)
MEDIACOM:	8.60	(0.01)	LEVEL 3:	1.23	(0.04)
SHAW COMM:	21.21	0.19	MICROSOFT:	28.66	0.36
TIME WARNER CABLE:	65.87	0.26	RENTRAK:	27.64	(0.81)
VIRGIN MEDIA:	24.81	(0.39)	SEACHANGE:	8.89	(0.05)
WASH POST:	426.27	2.50	SONY:	35.87	(0.01)
PROGRAMMING					
CBS:	20.47	0.53	SPRINT NEXTEL:	4.36	(0.09)
CROWN:	2.49	(0.03)	THOMAS & BETTS:	48.88	0.24
DISCOVERY:	39.48	0.92	TIVO:	9.88	0.11
GRUPO TELEVISA:	25.86	(0.14)	TOLLGRADE:	9.43	0.04
HSN:	28.44	0.47	UNIVERSAL ELEC:	25.93	(0.14)
INTERACTIVE CORP:	28.90	(0.48)	VONAGE:	3.33	0.14
LIBERTY:	40.44	0.09	YAHOO:	16.50	(0.31)
LIBERTY STARZ:	66.13	(0.24)	TELCOS		
LIONSGATE:	6.51	(0.19)	AT&T:	28.33	(0.1)
LODGENET:	4.12	(0.24)	QWEST:	7.23	(0.05)
NEW FRONTIER:	1.82	0.05	VERIZON:	34.36	(1.1)
OUTDOOR:	7.75	0.21	MARKET INDICES		
PLAYBOY:	6.11	0.01	DOW:	11837.93	50.55
SCRIPPS INT:	48.10	0.35	NASDAQ:	2765.85	10.55
TIME WARNER:	32.82	(0.31)	S&P 500:	1295.02	1.78
VALUEVISION:	6.80	(0.41)	TECHNOLOGY		
VIACOM:	48.55	0.70	ADDVANTAGE:	3.05	(0.11)
WWE:	13.91	(0.12)	ALCATEL LUCENT:	3.32	UNCH
TECHNOLOGY					
AMDOCS:	28.86	0.02			
AMPHENOL:	52.89	0.63			
AOL:	24.73	0.30			
APPLE:	340.65	(7.83)			
ARRIS GROUP:	12.57	0.07			



2010 Best Advice/Motto Series



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CableFAX Daily™

WHAT THE INDUSTRY READS FIRST

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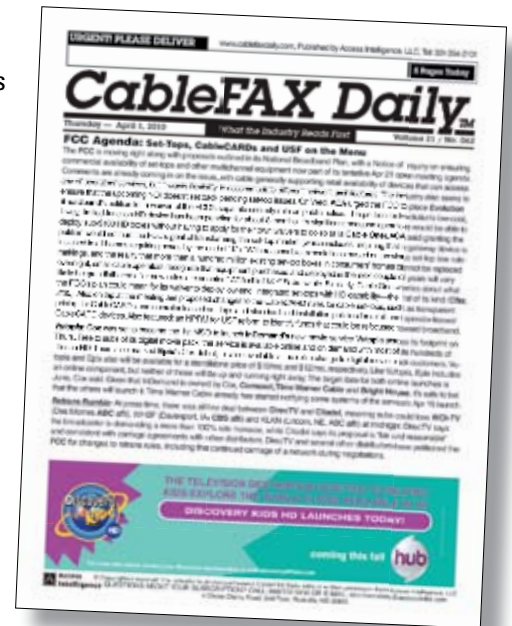
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