

CableFAX Daily™

Monday — January 24, 2011

What the Industry Reads First

Volume 22 / No. 014

Retranspalooza: As Congress Mulls Changes, Little Sign of Détente

Opposing parties in the retrans debate got together on Capitol Hill Fri and found a free-market solution that all sides endorsed as fair. Gotcha! As you might imagine, the opposite happened, with a **Technology Policy Institute**-sponsored luncheon exposing increasingly deep rifts as Congress considers reform of the nearly 2-decades-old rules. "It defies reason that nothing should be changed about this framework," said *Barbara Esbin*, senior counsel at **Cinnamon Mueller** and a former **FCC** lawyer. She argued that intense distributor competition has skewed the market in favor of broadcasters, who now wield enormous leverage over cable. But while acknowledging that "the marketplace has changed dramatically" since the 1992 Cable Act put in place current retrans rules, bcst attorney *Antoinette Bush* of **Skadden, Arps, Slate, Meagher & Flom** noted that broadcasters also face more competition and as a result get smaller audiences, requiring them to ask for higher retrans fees to compensate. *Jeffrey Eisenach*, managing dir and principal of **Navigant Economics**, said cable's call for baseball-style binding arbitration is a "cutting issue" that could distort the market. "At the end of the day, they want the government, not the private negotiators, to set the terms of trade," he said. "That's regulation." But Esbin said arbitration is "considered more of a marketplace mechanism than rate regulation" and argued that small ops especially need such an option because they often serve rural, economically depressed areas and can't always pass through retrans fees. Eating the cost means less money for broadband and other services, hurting rural consumers, she said. But Bush said consumers can always switch to DBS or another provider in most markets and offered little sympathy for small ops, arguing that the 1992 Cable Act was "not intended to ensure any particular business model... That's not what competition is about—'We're going to guarantee that everyone has a business model.'" FCC chief economist *Jonathan Baker* demurred on what the FCC might or might not do, but he said many economic questions deserve study—including the root causes of higher retrans fees (Is it the higher cost of content, more expensive sports rights, the "by product" of Most Favored Nation clauses, etc?)—and he urged parties to present data and evidence backing up their claims. "It's not just us who should be doing this work," he said. "It's everyone else as well." Esbin argued that the FCC's recent action on net neutrality shows that it can find the authority to "tinker around the edges" when the political will exists. She suggested the agency "use the same imaginative approach" to reform retrans. If anything, the event reinforced the idea that both the

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FCC and Congress could face a lobbying onslaught this year.

Order in the Court: And so it begins. **Verizon** filed an appeal in D.C. Circuit Court challenging the **FCC's** Open Internet Order, hiring **Wiley Rein** attorney *Helgi Walker* to battle the FCC as she did successfully for **Comcast** in the same court. "We are deeply concerned by the FCC's assertion of broad authority for sweeping new regulation of broadband networks and the Internet itself," said Verizon svp. Deputy general counsel *Michael Glover* in a release. "We believe this assertion of authority goes well beyond any authority provided by Congress, and creates uncertainty for the communications industry, innovators, investors and consumers." **Stifel Nicolaus** said VZ is challenging the Order by claiming the FCC modified its licenses based on the Order's regulation of mobile wireless carriers. The gambit, the firm believes, increases the likelihood the D.C. Circuit will hear the case, "which should increase Verizon's chance of overturning the FCC order." Not surprisingly, **House Commerce Cmte** chmn *Fred Upton* (R-MI) joined Reps *Greg Walden* (R-OR) and *Lee Terry* (R-NE) in supporting VZ's move. "We welcome the decision by Verizon, and hopefully others, to demand their day in court to block the FCC's misguided attempt to regulate the Internet," said the trio in a release. "Between our legislative efforts and this court action, we will put the FCC back on firmer ground." But others, including **Senate Commerce Cmte** chmn *Jay Rockefeller* and Rep *Harry Waxman* (D-CA), don't share their opinion. "Verizon has the legal right to do this, but we are disappointed that they filed suit... We support the FCC's efforts," said the pair in a statement. **Public Knowledge** said VZ "is trying to be too cute in trying to pick not only the venue for the challenge to the rules, but also to pick the judges to hear it. The court should see through this ploy and reject Verizon's attempt to pick the home field for its appeal." Perhaps Stifel Nicolaus described the latest development in the net neutrality controversy best when it said, "let the games begin."

NBCU Earnings: NBCU's '10 rev rose by a relatively benign 9% while profit was flat, but judging by the trend line that developed last year, it appears Comcast steps in at an advantageous juncture. The segment posted 12% rev growth to \$4.76bln in 4Q and a 38% surge in profit to \$830mln on "great strength in entertainment properties," said **GE** vice chmn/CFO *Keith Sherin*, and cable delivered rev of \$1.5bln (+15%) and profit of \$740mln (+16%). But while cable had a handsome year for NBCU, broadcast is showing the greater recent momentum. Citing strength in local markets and the NFL, Sherin noted broadcast's positive profit and 11% rise in rev to \$1.8bln, marking an increase of 29% from July-Dec. NBCU's overall rev grew 27% over the same period, profit 24%. The Comcast-NBCU deal is expected to close Jan 28.

5 Qs with Steven DeKnight: *We sat down with Steven DeKnight, executive producer, head writer and creator of "Spartacus: Gods of the Arena" to talk about the 6-episode prequel to "Spartacus: Blood and Sand," which premieres Jan 21, 10pm, on Starz. It seems like there was a subtlety to the writing and characters in the prequel that wasn't there in Spartacus, season one.* Yes, honestly, when we started off on Spartacus in season one, it didn't start off subtle... We were able to find that in season one, eventually. But the great thing about that learning process is that we were able to apply it all to the prequel. So in episode one we were able to do all that subtle stuff, the set-up, the character interaction, and not lose any of the excitement or the spectacle. **What are your favorite subtleties in that ep?** I really like the interplay between Batiatus (John Hannah) and Solonius (Craig Walsh-Wrightson), where we realize they were good friends... I love the stuff between Lucretia (Lucy Lawless) and Gaia (Jaime Murray), where you have that sense that Lucretia was trying to be a proper woman, but there's something in her past where she's not been on the up and up... It was such a joy to work with all those characters and do it with a little more fine attention to detail. **Part of the attention to detail is evident in the walk-and-talks [where characters deliver dialogue while walking through a street scene, for example]. There's a shot in a public latrine. It sounds prosaic, but I thought it was a great insight into life at that time.** Yes. A lot of that is [executive producer] Rob Tapert and the crew down there... I was imaging they'd stop... urinate and move on. But, oh no. [Laughter] And I saw that scene [where the characters talk as they defecate] and thought, this is such a great slice of Roman life... **During the gladiators' fights we see main characters and extras screaming for blood. Were you trying to show the widespread bloodlust of those times?** Oh, yes. Everything we've read indicates they had this bloodlust. **Many of the situations in the prequel translate to today. Batiatus is basically a PR man.** Absolutely. I always imagine Batiatus as kind of a boxing promoter. He needs to get his guys in there, he's got to maneuver, he's wheeling, he's dealing. And in true Batiatus fashion, it gets him into trouble. **[Look for an extended version of this interview at CableFAX.com]**

People: NBC prime ent pres *Angela Bromstad* said she's leaving **NBCU**.

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CableFAX Week in Review

Company	Ticker	1/21 Close	1-Week % Chg	YTD %Chg
BROADCASTERS/DBS/MMDS				
DIRECTV:	DTV	41.85	(1.55%)	25.49%
DISH:	DISH	21.61	0.93%	4.04%
DISNEY:	DIS	39.74	1.15%	23.22%
GE:	GE	19.74	4.89%	30.47%
NEWS CORP:	NWS	16.91	6.09%	6.22%
MSOS				
CABLEVISION:	CVC	34.23	1.12%	32.57%
CHARTER:	CHTR	41.13	0.49%	0.00%
COMCAST:	CMCSA	23.53	3.57%	39.56%
COMCAST SPCL:	CMCSK	22.11	3.61%	38.10%
GCI:	GNCMA	12.10	(8.12%)	89.66%
KNOLOGY:	KNOL	14.33	(5.41%)	31.23%
LIBERTY CAPITAL:	LCAPA	62.87	(2.15%)	163.27%
LIBERTY GLOBAL:	LBTYA	39.15	4.32%	78.85%
LIBERTY INT:	LINTA	15.74	(2.48%)	45.20%
MEDIACOM:	MCCC	8.58	(0.35%)	91.95%
SHAW COMM:	SJR	21.22	0.95%	3.16%
TIME WARNER CABLE:	TWC	67.28	2.55%	62.55%
VIRGIN MEDIA:	VMED	24.93	(1.07%)	48.13%
WASH POST:	WPO	434.11	2.44%	(1.25%)

Company	Ticker	1/21 Close	1-Week % Chg	YTD %Chg
PROGRAMMING				
CBS:	CBS	20.70	3.81%	47.33%
CROWN:	CRWN	2.31	(8.33%)	59.31%
DISCOVERY:	DISCA	40.04	3.84%	30.55%
GRUPO TELEVISIA:	TV	24.56	(5.54%)	18.30%
HSN:	HSNI	27.39	(2.07%)	35.66%
INTERACTIVE CORP:	IACI	28.22	(3.95%)	37.79%
LIBERTY:	L	40.23	(0.3%)	10.67%
LIBERTY STARZ:	LSTZA	65.01	(2.05%)	40.87%
LODGENET:	LNET	3.34	(23.39%)	(39.6%)
NEW FRONTIER:	NOOF	1.78	0.57%	(5.81%)
OUTDOOR:	OUTD	7.60	0.80%	31.03%
PLAYBOY:	PLA	6.10	0.00%	90.63%
TIME WARNER:	TWX	32.79	(1.03%)	12.53%
VALUEVISION:	VVTV	6.23	(13.59%)	29.79%
VIACOM:	VIA	48.21	0.75%	53.05%
WWE:	WWE	13.50	(5%)	(11.94%)

Company	Ticker	1/21 Close	1-Week % Chg	YTD %Chg
TECHNOLOGY				
ADVANTAGE:	AEY	2.96	(6.03%)	50.25%
ALCATEL LUCENT:	ALU	3.23	7.67%	(2.71%)
AMDOCS:	DOX	28.68	(0.55%)	0.53%
AMPHENOL:	APH	53.29	1.97%	15.40%
AOL:	AOL	23.85	(2.37%)	2.45%
APPLE:	AAPL	326.72	(6.24%)	55.04%
AVID TECH:	AVID	16.99	(5.61%)	33.15%
BIGBAND:	BBND	2.60	(3.35%)	(24.42%)
BLNDER TONGUE:	BDR	2.41	(3.6%)	111.40%
BROADCOM:	BRCM	44.51	(5.98%)	41.44%
CISCO:	CSCO	20.73	(2.29%)	(13.43%)
CLEARWIRE:	CLWR	5.51	(3.16%)	(18.49%)
CONCURRENT:	CCUR	5.24	6.07%	32.32%
CONVERGYS:	CVG	13.95	2.42%	29.77%
CSG SYSTEMS:	CSGS	18.49	(3.45%)	(3.14%)
ECHOSTAR:	SATS	26.90	0.26%	33.57%

Company	Ticker	1/21 Close	1-Week % Chg	YTD %Chg
GOOGLE:	GOOG	611.83	(1.98%)	(1.31%)
HARMONIC:	HLIT	7.95	(5.5%)	25.75%
INTEL:	INTC	20.82	(1.23%)	2.06%
JDSU:	JDSU	16.02	(9.83%)	94.21%
LEVEL 3:	LVLTL	1.13	(11.02%)	(26.14%)
MICROSOFT:	MSFT	28.02	(0.99%)	(8.07%)
RENTRAK:	RENT	26.05	(8.44%)	47.43%
SEACHANGE:	SEAC	8.66	(3.16%)	31.97%
SONY:	SNE	34.22	(4.63%)	18.00%
SPRINT NEXTEL:	S	4.31	(7.91%)	17.76%
THOMAS & BETTS:	TNB	48.31	(0.68%)	34.98%
TIVO:	TIVO	9.56	(2.15%)	(6.09%)
TOLLGRADE:	TLGD	9.13	(2.77%)	49.43%
UNIVERSAL ELEC:	UEIC	26.85	2.99%	15.63%
VONAGE:	VG	3.17	(0.63%)	126.43%
YAHOO:	YHOO	15.96	(5.03%)	(4.86%)
TELCOS				
AT&T:	T	28.33	(0.35%)	1.07%
QWEST:	Q	6.91	(5.08%)	64.13%
VERIZON:	VZ	34.95	(1.44%)	5.49%

Index	Ticker	1/21 Close	1-Week % Chg	YTD %Chg
MARKET INDICES				
DOW:	DJI	11871.84	0.72%	13.85%
NASDAQ:	IXIC	2689.54	(2.39%)	18.53%
S&P 500:	GSPC	1283.35	(0.76%)	12.11%

WINNERS & LOSERS

THIS WEEK'S STOCK PRICE WINNERS

COMPANY	CLOSE	1-WK CH
1. ALCATEL LUCENT:	3.23	7.67%
2. NEWS CORP:	16.91	6.09%
3. CONCURRENT:	5.24	6.07%
4. GE:	19.74	4.89%
5. LIBERTY GLOBAL:	39.15	4.32%

THIS WEEK'S STOCK PRICE LOSERS

COMPANY	CLOSE	1-WK CH
1. LODGENET:	3.34	(23.39%)
2. VALUEVISION:	6.23	(13.59%)
3. LEVEL 3:	1.13	(11.02%)
4. JDSU:	16.02	(9.83%)
5. RENTRAK:	26.05	(8.44%)



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