

CableFAX Daily™

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What the Industry Reads First

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Yada Yada Yada: Net Neutrality Season Returns to Washington

What do net neutrality and "Seinfeld" have in common? They're both shows about nothing, quipped **Precursor Group's Scott Cleland**. And so began the **Media Institute's** return to the college debate team days, with the 1st Amendment group hosting a DC debate Wed between Cleland, founder of **netcompetition.org**, and net neutrality lover **Gigi Sohn of Public Knowledge**. A fair-minded **Dick Wiley** declined to declare a winner, but we have to give Cleland points for some of the best zingers. The analyst declared that **AT&T** was "mugged," saying it agreed to net neutrality conditions in order to gain approval of its merger with **BellSouth** last year. "This was pure political extortion," Cleland said. Sohn offered no denial. "Yeah, it was extortion, but that's just the way it is," she said. "It was all for a good reason. I was happy to be a part of that extortion." The debate didn't really cover much new ground, but it was a nice precursor to next Thurs' Sen Commerce hearing on **FCC** oversight, which is sure to touch on net neutrality and the Commission's handling of the AT&T-BellSouth merger. It also gave further insight to what Sohn and other net neutrality proponents will argue in pushing legislation this year. She declared the age-old argument of "what is net neutrality?" moot because "AT&T just defined it." Sohn also advocated setting up a neutrality regulation similar to program access rules, with companies filing complaints to the FCC. She expressed disappointment that more cable and broadcast networks weren't involved in the issue. "Any content provider should be concerned because a network owner could discriminate against them," she said.

Dragging On: When, oh when, will **Time Warner Cable** shares begin trading? That's up in the air after a US District Court judge on Wed granted a request by some bondholders, including **Banc of America Securities**, to delay **Adelphia's** reorg plan pending appeal. The delay postpones full trading of the stock, which many expected to begin in the next few weeks. Adelphia is using part of a 16% stake in Time Warner Cable worth nearly \$6bln to pay creditors. While Judge **Shira Scheindlin** of the U.S. District Court in Manhattan extended a stay (**Cfax**, 1/18) on the plan's confirmation, she ordered requesting bondholders to post cash or a bond totaling \$1.3bln within 72 hours. Scheindlin said it's unlikely she will rule before late April and that the noteholders have a "substantial possibility" of prevailing, **Bloomberg** reports.

On the Hill: Iowa Reps **Leonard Boswell**, **Tom Latham**, **Tom Braley** and **David Loebsack** have asked the House Commerce Committee for guidance on whether or not the **FCC** has authority to order **Sinclair** and **Mediacom** to enter into final binding arbitration. -- Sen **John Kerry** (D-MA) was named chmn of Sen Commerce's science, technology and innovation subcmte. Sen **Byron Dorgan** (D-ND) will chair the interstate commerce, trade and tourism subcmte.

SCTE Notebook: The cable industry will ultimately win the content delivery race, said **Robert Metcalfe**, general partner of **Polaris Venture Partners**, at **SCTE's** Emerging Technologies (ET) conference in Houston on Wed. Metcalfe, who is credited with creating Ethernet technology, said switched Ethernet will eventually dominate content delivery. "It is not DOCSIS versus Ethernet," Metcalfe said. "DOCSIS is Ethernet... HFC Ethernet... You move towards switching



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when you need more guarantees of bandwidth.” -- Panelists also said cable needs to provide time and location-shifted content across TVs, PCs, phones and other devices. “Customers want to use their media in ways we never imagined,” said *Mitchell Weintraub*, senior director, new media at **Comcast Media Center**. He said cable is “uniquely positioned” to become a media management agent. Cable may want to jump quickly because **Sling Media**’s products, including Slingbox, are getting even more popular. “We’re the ultimate... in device reality,” said *Dave Mathews*, forward thinker at **Sling Media**. “Cable is our number one connection to the network.” **[Editor’s Note: To learn how the Slingbox works, check out our video segment at cable360.net -- <http://www.cable360.net/events/conventions/21542.html>].**

In the Courts: A jury awarded Loral \$51mln in its lawsuit against **Cablevision** subsidiary **Rainbow DBS**. The suit, in the NY Supreme Court, relates to a contract Loral had with Cablevision over its defunct Voom DBS service. “We did not believe under the terms of the contract that we were obligated to make an immediate payment, however, the jury determined otherwise.” Cablevision said. “We are considering our options and have no further comment at this time.”

In the States: The **TN Cable Telecom Assoc** launched **CableConnectsTennessee.com** to tell the public that it thinks an expected state franchising proposal from **AT&T/BellSouth** would be bad policy. -- **BigBand** led the switched broadcast deployment of “iO International” across **Cablevision**’s footprint. It offers 9 distinct in-language packages for global TV channels. -- **Oceanic Time Warner Cable** selected **Concurrent**’s “MediaHawk 4500” on demand platform to expand VOD services across its HI division. -- A deal with **National CineMedia** lets **Discovery** feature short-form content from nets including **Discovery Channel** and **TLC** in pre-feature shows on more than 11K nationwide movie theater screens.

Competition: **Verizon** expanded its FiOS TV service more into **Cablevision**’s backyard, this time into Eastchester, NY.

Ratings: **AMC**’s Sat airing of *Robert Redford* film “Jeremiah Johnson,” notched a 3.09 HH rating and more than 4mln viewers. That makes it the net’s 4th-highest rated program ever. -- *Steve Irwin*’s last doc “Ocean’s Deadliest,” and a half-hour tribute to his life “Crikey! What an Adventure,” which aired in succession Sun, garnered more than 10mln total viewers across **Animal Planet** and **Discovery Channel**. -- **History Channel**’s “Digging For the Truth” Season 3 premiere goes down as a best-ever series premiere among adults 18-49 (911K) and 25-54 (1.1mln) for the net.

Programming: **Lifetime** summoned a 2nd helping of reality series “Lisa Williams: Life Among the Dead.” The British psychic will return in 8 new eps this summer. -- **Versus** added the inaugural season of the **World Combat League** (Thurs, 11pm ET), a team-based martial arts league created by action star *Chuck Norris*. -- **TV Guide Channel** green lit a 2nd season of “American Idol” pre-show “Idol Tonight” (Mar), and hired former Idol runner-up *Justin Guarini* as a correspondent. -- **Hallmark Channel** is offering “Whole Lotta Love-Full-Contact Edition!” (Feb 4), featuring historical spots from Hallmark Cards and Hallmark Hall of Fame, as an alternative to the SuperBowl halftime show starring *Prince*.

On the Circuit: **IFC** evp/GM *Evan Shapiro* kicks off Feb 15 in Austin, TX, the **CableCenter**’s “Cable Mavericks” lecture series, aiming to expose college students to the ‘maverick’ entrepreneurial approach of the cable telecom industry. Subsequent presentations will feature **Cox** pres *Pat Esser* and **HGTV** vp, marketing *Annette Lindstrom*. -- Oxygen founder *Gerry Laybourne* said this year’s Mentors Walk will be held on the Mall in Washington, DC, June 19. The walk usually is held in NYC and allows young women to chat with successful women. This year’s walk will stress political leadership, Laybourne told a women’s group on Capitol Hill before the State of the Union Tues night. [More on cable360.net].



inFAnity

Where TV Fans Get Inside Their Favorite Shows

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Mondays 9/8c

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BUSINESS & FINANCE

Branding: ION rebrands its i Network to ION Television on Mon (Cfax, 1/3). The on-air promotional campaign is tagged: "ION Television: Television in Motion" and also includes a Web-based promo that has viewers submit creative photos of themselves donning the new logo.

At the Portals: Representatives from **Discovery, Disney, Viacom, Black Family Channel** and the **American Academy of Pediatrics** are among members of the **FCC's** Task Force on Media and Childhood Obesity. The group holds its 1st meeting Feb 14.

Honors: Showtime leads the record 37 networks who garnered nominations for this year's **NAMIC Vision Awards**, which honor original, multi-ethnic cable programming. Showtime received 9 nods, followed by **MTV** (8), **Disney** (6), **FX** (6) and **TNT** (6). FX's "The Shield" earned 4 nominations, the most of any program.

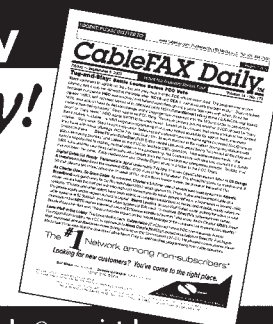
People: Kent Rice had pres/COO of **Starz Media** added to his title (he's currently CEO of the company's animated feature film div). John Hyde moves from pres/COO **Starz Media** to the newly created post of vice chmn of the company. -- **Scripps** **Nets** promoted Ron Feinbaum to evp, business development. -- **Ovation** **TV** added Gaynor Strachan-Chun as vp, marketing and Greg Bunch as vp, distribution. -- **HGTV** appointed former **Fox** exec Lori Asbury svp, marketing and creative services.

CableFAX Daily Stockwatch

| Company | 01/24 Close | 1-Day Ch | Company | 01/24 Close | 1-Day Ch |
|------------------------------|----------------|-------------|-----------------------|----------------|-------------|
| BROADCASTERS/DBS/MMDS | | | | | |
| BRITISH SKY: | 43.17 | (0.39) | AVID TECH: | 36.37 | 0.31 |
| DIRECTV: | 24.50 | 0.06 | BLNDER TONGUE: | 1.91 | (0.03) |
| DISNEY: | 35.35 | (0.23) | BROADCOM: | 30.69 | 1.23 |
| ECHOSTAR: | 40.99 | 0.43 | C-COR: | 12.15 | (0.1) |
| GE: | 36.64 | 0.09 | CISCO: | 26.89 | 0.85 |
| HEARST-ARGYLE: | 25.98 | (0.26) | COMMScope: | 32.08 | 0.48 |
| ION MEDIA: | 1.22 | (0.03) | CONCURRENT: | 1.62 | (0.03) |
| NEWS CORP: | 24.43 | 0.11 | CONVERGYS: | 26.28 | 0.08 |
| TRIBUNE: | 30.22 | 0.12 | CSG SYSTEMS: | 24.53 | (1.22) |
| MSOS | | | | | |
| CABLEVISION: | 30.69 | 0.38 | GEMSTAR TVG: | 3.85 | (0.01) |
| CHARTER: | 3.36 | (0.07) | GOOGLE: | 499.07 | 20.02 |
| COMCAST: | 45.00 | 0.47 | HARMONIC: | 8.86 | 0.18 |
| COMCAST SPCL: | 44.00 | 0.23 | JDSU: | 17.57 | 0.39 |
| GCI: | 15.56 | 0.09 | LEVEL 3: | 6.26 | 0.31 |
| KNOLOGY: | 11.72 | 0.10 | LUCENT: | 2.55 | (0.02) |
| LIBERTY CAPITAL: | 103.00 | 0.14 | MICROSOFT: | 31.09 | 0.35 |
| LIBERTY GLOBAL: | 30.76 | 0.02 | MOTOROLA: | 18.57 | 0.04 |
| LIBERTY INTERACTIVE: | 24.78 | 0.76 | NDS: | 48.58 | 2.15 |
| MEDIACOM: | 7.91 | (0.12) | NORTEL: | 26.59 | 0.54 |
| NTL: | 26.77 | 0.46 | OPENTV: | 2.41 | (0.01) |
| ROGERS COMM: | 32.75 | 0.89 | PHILIPS: | 38.89 | 0.63 |
| SHAW COMM: | 37.02 | 0.12 | RENTRAK: | 16.05 | 0.30 |
| TIME WARNER: | 22.52 | 0.06 | SEACHANGE: | 10.52 | 0.16 |
| WASH POST: | 761.00 | 1.10 | SONY: | 46.86 | 0.23 |
| PROGRAMMING | | | | | |
| CBS: | 31.34 | (0.26) | SPRINT NEXTEL: | 17.84 | 0.39 |
| CROWN: | 4.22 | 0.03 | THOMAS & BETTS: | 47.23 | 1.06 |
| DISCOVERY: | 17.09 | 0.11 | TIVO: | 5.43 | (0.08) |
| EW SCRIPPS: | 53.01 | (0.06) | TOLLGRADE: | 10.27 | 0.52 |
| GRUPO TELEvisa: | 29.48 | 0.35 | UNIVERSAL ELEC: | 20.37 | 0.17 |
| INTERACTIVE CORP: | 39.18 | 0.06 | VONAGE: | 5.69 | (0.16) |
| LODGENET: | 26.32 | 0.82 | VYYO: | 4.24 | 0.01 |
| NEW FRONTIER: | 10.03 | 0.07 | WEBB SYS: | 0.06 | 0.00 |
| OUTDOOR: | 12.90 | 0.19 | WORLDGATE: | 1.27 | (0.01) |
| PLAYBOY: | 11.37 | 0.21 | YAHOO: | 28.94 | 1.98 |
| UNIVISION: | 35.89 | (0.01) | TELCOS | | |
| VALUEVISION: | 12.42 | (0.06) | AT&T: | 36.87 | 1.51 |
| VIACOM: | 40.35 | (0.35) | QWEST: | 8.57 | 0.03 |
| WWE: | 16.20 | 0.11 | VERIZON: | 38.07 | 0.58 |
| TECHNOLOGY | | | | | |
| 3COM: | 3.97 | 0.02 | MARKET INDICES | | |
| ADC: | 15.81 | 0.11 | DOW: | 12621.77 | 87.97 |
| ADDVANTAGE: | 2.92 | 0.01 | NASDAQ: | 2466.28 | 34.87 |
| AMDOCS: | 34.37 | 0.62 | | | |
| AMPHENOL: | 67.32 | 1.44 | | | |
| ARRIS GROUP: | 13.69 | 0.09 | | | |

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Think about that for a minute...

VDOD

Some time ago I questioned why there should be a different result under copyright law analysis depending on the length of the wire used to connect pieces of user-controlled equipment. I was referring to the Cablevision plan to offer “network” DVRs. The consumer still controlled what and when something was recorded, and controlled playback. The only difference between a network DVR and today’s recorders is that the storage of the video content is at the cable headend rather than in the DVR.



Steve Effros

Why, I asked, should it make any difference to copyright holders if the consumer was allowed to record and play back a cable-delivered program, whether that recording was made and stored in a device with a short wire from the storage device to the television set or a long wire from the headend? I don't think there is any

significant difference, but clearly a lot of programmers didn't want Cablevision or other cable operators to make things that simple or inexpensive for consumers, so they sued. The case is still going on. It does not look good for Cablevision. Apparently the thrust of the argument has to do with the contracts cable has written with the programmers, not the actual service itself.

This same battle is going on in the context of satellite radio with XM. They sold receiving devices that could record and play back the music they were sending to subscribers. Again, the content providers sued. Again the argument has been that delivering the product does not mean the company doing the delivery can help the consumer see or hear the product whenever they want, just when it is sent. Of course, there are other companies making products that will store and manipulate that same delivered product. Computer companies, CE companies and startups like Slingbox all help the con-

sumer do exactly what Cablevision and XM are being challenged on; allowing consumer control of copyrighted works once they have been purchased.

This is going to get a lot more confusing very soon, and there are only two real paths: we can start rewriting the copyright laws with very fine distinctions on who can do what and when with a copyrighted work that is already paid for by the consumer. Or a policy decision can be made to just back off the whole area and conclude that once the consumer has bought something like a song or a television program, they have the right to do with it as they please—so long as they don't redistribute it to others.

The best example I have come up with to show how Gordian this knot can get is “VDOD”. That’s video download on demand. Right now, the movie companies are feverishly trying to fashion business plans for “downloading” or “streaming” their product on the Internet. But those same movies are already “streamed” on cable, and the delivery is far faster with better assurance of delivery than on the net. Since a lot of those movies are now also part of video-on-demand play lists that a subscriber can tap into at any time, one could consider them “downloaded” to a server at the headend rather than in my home computer—hence, “video download on demand.” I don’t see any significant difference between the computer/Internet model and the one already being offered, with more apt technology for delivering video (particularly HD) by cable.

So is there a difference? Should there be? Should consumers be asked to pay twice depending on who delivers and how long the wire is, or where the recording resides? I don't think so.

Steve

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