

CableFAX Daily™

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What the Industry Reads First

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Freeze! Program Carriage Order's Standstill Now in Effect

Get ready to stand still. The program carriage order the **FCC** released last Aug is now fully active. Prior to Wed, the standstill requirement against which **NCTA** fought so hard was not in effect because it needed clearance of new information collection requirements. But that changed with the OMB approving it and other rules Jan 30, and the FCC publishing Feb 8 as the effective date of the rules in the Federal Register. What does this mean? A programmer filing a carriage complaint may also file a petition requesting a temporary standstill of price, terms and other conditions of the existing contract. **NCTA** and even FCC commish *Robert McDowell* have argued that the standstill requirement oversteps the FCC's authority, in part because the '07 NPRM upon which it is based made no mention that a standstill provision was under consideration. It was clear from the start that there would be legal challenges. **NCTA** and **Time Warner Cable** have filed appeals. Since they didn't request a stay, the order is now active barring a reversal by the courts. The appeals are now pending in the US Court of Appeals for the 2nd Circuit, with opening briefs due from each on Mar 27. As for specifics on the standstill provision, it is not retroactive. The petition for temporary standstill and complaint must be filed no later than 30 days prior to the expiration of the existing programming contract. MVPDs have 10 days to answer a petition for standstill. "Because the new carriage terms will be applied as of the expiration date of the previous contract, we believe that complainants will not have an incentive to seek a temporary standstill solely to benefit from the status quo or to gain leverage," the FCC said. The Commission also acknowledged that sometimes complaints are about whether an MVPD should carry video programming at all or on a specific tier. The order said the adjudicator should be able to address such issues case-by-case.

Earnings: Although **Scripps Nets'** programming expense growth slowed sequentially in 4Q, the company expects its programming costs to increase by a larger percentage than overall rev this year. But investments in new programming for **Travel Channel** are required to right the net's ship, and the momentum percolating at **Food Net** may suffuse **HGTV** if the housing market continues its slow recovery this year. "We're in a very enviable position going forward," said chmn/CEO *Ken Lowe*, and the 4Q results of Scripps' Lifestyle Media segment seem to support that outlook. While growing rev 9% and profit 13%, the unit crushed with a 11% rise in ad rev as some other programmers suffered notable setbacks from Oct-Dec. Food Net and HGTV, which together repped approx 77% of the rev achieved by Scripps' cable nets, increased

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* Source: Experian Simmons Multi-Media Engagement Study: Spring 2011, Past 7 days Viewing. Top 2 box data based on 7 "Other" category statements. Base: Adults 25-54; measured among 77 national, ad-supported networks (excluding Hispanic, children and non-Nielsen-rated networks). Ranking based on a competitive set of networks.

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rev a respective 15% and 8.1%. The other big net, Travel, saw rev decline 1.4%, but it also achieved its 2nd highest rated year in history in '11, and CFO *Joseph NeCastro* said "we're getting some traction we feel good about" on the 18 month-2 year turnaround plan. Overall affil rev rose 6%. And its TVE/digital strategy "really bodes well for the content we have," said Loew. Scripps is currently focused on discussing related options with MVPDs. -- Cable nets continue to power **News Corp's** operations, with the segment reporting for the latest quarter growth across overall rev (+9%), op income (+20%) and domestic affil (+9%) and ad rev (+6%). Like Time Warner boss *Jeff Bewkes*, News deputy chmn/COO *Chase Carey* expressed some frustration with slow TVE rollouts. "You can't take three to four years getting something done," he said. "It is the right solution... that serves everybody's purpose including the consumer." News has already booked \$200mln in fees from **Netflix** and **Amazon**, and Carey describes the online video market as having "tremendous growth in it."

In the Courts: The idea of cameras in the Supreme Court is a pretty big deal given that so few Americans have actually seen the high court in action. While a 11-7 vote in Sen Judiciary Thurs to televise SCOTUS proceedings might seem like a big step in that direction, don't count on it. This is the 4th time such a measure has made it out of committee (and went nowhere), and the Companion bill in the House has a mere 16 co-sponsors. Could this time be different? "We're not taking a step back," said **C-SPAN** corporate vp & gen counsel *Bruce Collins*. Social media has put more pressure on the court to be more transparent, Collins said, adding that it has responded in part. "Now, we get all arguments released on audio tape every Friday—before it used to be occasionally and then only when we asked," he said. Also adding transparency pressure is the looming oral argument on the healthcare act coming up in Mar. "It is quite unusual for the court to grant 5 hours of oral argument," Collins said, noting that the upcoming case was mentioned during Thurs' Sen markup. C-SPAN asked the Court in Nov to allow it to televise the oral argument, saying it would distribute it on a live basis to all others in the media interested in carrying it. The net has not heard from the court yet. Sounds like the Justices could use some persuading. During the hearing, Sen *Diane Feinstein* (D-CA), who voted against the bill, said at least 5 of the current Justices don't support cameras in the court. -- **EWTN Global Catholic Network** has filed suit against the Dept of Health & Human Services and other govt agencies seeking to stop the imposition of the contraception mandate as well as asking the court for a declaratory judgment that the mandate is unconstitutional. "We had no other option but to take this to the courts," says EWTN pres/CEO *Michael Warsaw*. "Under the HHS mandate, EWTN is being forced by the government to make a choice: either we provide employees coverage for contraception, sterilization and abortion-inducing drugs and violate our conscience or offer our employees and their families no health insurance coverage at all. Neither of those choices is acceptable."

In the States: **DirectTV** expanded nationally its offering of the **TiVo** HD DVR featuring access to more than 7K on demand movies and shows, content suggestions and up to 100 hours of HD recording. -- **Optimum Lightpath** launched a Government Services Suite targeting local government entities looking to reduce telecom costs, make services more accessible to residents and increase intra-department collaboration.

On the Hill: A bipartisan group of lawmakers asked the **FCC** to look into making some spectrum located in the TV band available for unlicensed services. The group of 42 members of Congress, led by Reps *Anna Eshoo* (D-CA) and *Darrell Issa* (R-CA) sent a letter to the Conferees on the Payroll Tax Cut conference committee urging them to protect public access to unlicensed spectrum. The group estimates unlicensed devices could pump \$16-37 billion per year into the U.S. economy.

Ratings: Super Bowl XLVI averaged a record 10.4mln Hispanic viewers, marking the 2nd consecutive big game with at least 10mln Hispanics and 68% growth in the demo since '07. -- The premiere of **Nat Geo's** "Doomsday Preppers" garnered nearly 4.3mln total viewers over age 2 and 2.3mln 25-54s over 2 hours/eps to become the net's highest Tues night telecasts ever. -- The Season 7 premiere of "Real Housewives of Orange County" earned 2.3mln total viewers for **Bravo** Tues night. That's a 10% increase compared to the previous season premiere.

Programming: **Golf Channel's** "The Haney Project" returns Feb 27 for a 4th season featuring pupils including *Sugar Ray Leonard* and *Angie Everhart*. -- **Syfy** picked up a 3rd season of drama series "Being Human." -- **Comcast** subs can get a sneak peek on demand of upcoming **Galavision** series "Kdabra," about a young man who leaves his ultra conservative life to become the world's greatest magician. The show bows Feb 19 at 9pm, but Comcast customers can watch it 10 days earlier on Xfinity on Demand. -- Victorian-era, original drama "The Crimson Petal and The White" will debut on **Encore** in Sept. The 4-part mini stars Golden Globe nominee *Romola Garai*.

BUSINESS & FINANCE

On The Circuit: Investigation Discovery's lunch event on Capitol Hill Thurs focused on the 2000 death of *Raynard Johnson*, chronicled in ID's series "Injustice Files." ID chief *Henry Schleiff* told the crowd that 1 year ago at a similar ID event filmmaker *Keith Beauchamp* was introduced to Johnson's sister, *Sherry Warren*. She asked if he'd investigate her brother's case. The results of her ask is Beauchamp's next Injustice Files installment, "At The End of a Rope" (Feb 21, 9pm). Many insist Johnson's hanging death in MS was a lynching, although authorities ruled it a suicide. The event became even more relevant when a member of the crowd, *Charles Hicks*, son of a founder of the 60's civil rights group Deacons for Defense, rose to say the roof of his 85-year-old mother's house in Bogalusa, LA, was burned and her car torched this past Jan 15, the birthday of Dr. Martin Luther King Jr. "We have a long way to go... hatred is still here," Beauchamp said.

People: *Beth Arnholt* has re-joined **Comcast** after consulting as vp, integrated talent mgmt. -- *Peter Risafi* was named vp, brand creative and production for **Food Net** and **Cooking Channel**. -- *Nick vet Bronwen O'Keefe* was named svp, **NickMom**, a multiplatform initiative that includes a primetime mom-focused block launching on **Nickelodeon** this fall. **NBC Sports Net** named **ESPN** vet *Ron Wechsler* vp, original programming and development.

CableFAX Daily Stockwatch

Company	02/09 Close	1-Day Ch	Company	02/09 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	45.56	0.64	CLEARWIRE:	1.99	0.04
DISH:	28.62	0.67	CONCURRENT:	3.70	UNCH
DISNEY:	41.53	0.26	CONVERGYS:	13.01	(0.04)
GE:	19.13	(0.11)	CSG SYSTEMS:	16.06	(0.22)
NEWS CORP:	19.96	(0.25)	ECHOSTAR:	31.55	0.72
MSOS					
CABLEVISION:	15.24	0.51	GOOGLE:	611.46	1.61
CHARTER:	58.79	0.67	HARMONIC:	6.52	(0.16)
COMCAST:	27.46	0.21	INTEL:	26.86	0.01
COMCAST SPCL:	26.30	0.27	JDSU:	13.79	0.09
GCI:	10.82	(0.23)	LEVEL 3:	21.46	0.15
KNOLOGY:	15.68	(0.02)	MICROSOFT:	30.77	0.11
LIBERTY GLOBAL:	49.02	0.83	MOTOROLA MOBILITY:	39.35	0.39
LIBERTY INT:	18.23	(0.01)	RENTRAK:	21.12	0.62
SHAW COMM:	19.85	0.08	SEACHANGE:	7.20	(0.03)
TIME WARNER CABLE:	76.38	(0.16)	SONY:	19.91	0.02
VIRGIN MEDIA:	25.39	0.12	SPRINT NEXTEL:	2.39	(0.02)
WASH POST:	388.34	0.53	THOMAS & BETTS:	71.98	0.05
PROGRAMMING					
AMC NETWORKS:	42.90	0.04	TIVO:	12.18	0.20
CBS:	29.77	0.04	UNIVERSAL ELEC:	20.08	(0.22)
CROWN:	1.18	(0.02)	VONAGE:	2.92	0.17
DISCOVERY:	45.02	(0.33)	YAHOO:	16.00	0.22
GRUPO TELEVISA:	20.07	(0.02)	TELCOS		
HSN:	35.69	UNCH	AT&T:	29.99	(0.03)
INTERACTIVE CORP:	45.37	0.14	VERIZON:	37.92	UNCH
LIONSGATE:	11.01	0.06	MARKET INDICES		
LODGENET:	3.41	(0.04)	DOW:	12890.46	6.51
NEW FRONTIER:	1.14	(0.02)	NASDAQ:	2927.23	11.37
OUTDOOR:	7.20	(0.26)	S&P 500:	1351.95	1.99
SCRIPPS INT:	43.82	(0.59)	TECHNOLOGY		
TIME WARNER:	37.71	(0.4)	ADVANTAGE:	2.28	0.04
VALUEVISION:	1.95	(0.02)	ALCATEL LUCENT:	1.94	(0.01)
VIACOM:	55.42	(0.11)	AMDOCS:	30.31	(0.05)
WWE:	9.75	(0.01)	AMPHENOL:	55.30	0.64
MARKET INDICES					
			DOW:	12890.46	6.51
			NASDAQ:	2927.23	11.37
			S&P 500:	1351.95	1.99



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PROGRAMMER'S PAGE with Chad Heiges and Seth Arenstein

RENT(al) Market

Although usurping Nielsen's long-standing position as the TV ratings gold standard may be akin to driving a sleuth of bears from a salmon run, **Rentrak** is beginning to develop compelling arguments and clients with clout. Under the radar this week is the company's new relationship with ad agency **Interpublic**, which is using Rentrak's data "as a trading currency and asking networks to bring in Rentrak's census-based information to conduct business," said RENT CEO *William Livek*. 39 MVPDs already use Rentrak's VOD viewership data from 100mln+ TV sets, and 140 station clients spanning 30 broadcast groups and 67 markets use the company's local data. Now, said Livek, Interpublic's move should help Rentrak challenge Nielsen at the national ratings level. "The high level of stability with our ratings and the predictability of our ratings can minimize network make goods," he said, adding the millions of dollars Rentrak spent building out its infrastructure acts as a solid barrier to entry. No doubt **Viacom** is taking Rentrak more seriously after its **Nickelodeon** ratings disagreement with Nielsen, particularly after **Miller Tabak's David Joyce** pointed out this week how Rentrak's data show a more moderate decline in Nick's recent viewership than Nielsen's—as well as a less severe share loss to **Disney Channel**. The key differentiator between Rentrak and Nielsen, sample size, clearly favors Rentrak by virtue of its 8mln set-tops compared to Nielsen's 25K homes. That's why I'm bullish on Rentrak and, um... bearish on Nielsen, although the former does have a long road ahead to inducing material change in the live TV ratings arena. *CH*

Highlights: "MLK: The Assassination Tapes," Sun, 9p, **Smithsonian**. In '08, **History's** "102 Minutes That Changed the World" dispensed with a narrator and music, using only news clips made on 9/11 to recount that fateful day. Now Smithsonian's *Tom Jennings* mines a treasure trove of media collected by U of Memphis faculty, who sensed in '68 that the strike of Memphis' mostly black sanitation workers would become a seminal moment. Weaving these media together, Jennings brings a human face to the troubling events surrounding the assassination of *Dr. Martin Luther King Jr.* More important, the story is as chilling as ever.

Worth a Look: "Dog Whisperer," Sat, 8p, **Nat Geo Wild**. *Cesar Millan* plays "Love Whisperer" on his 150th ep as Valentine's Day approaches. First he easily fixes a doggie drama for singing newlyweds. Next he brokers peace between a couple's persnickety pooches. -- "Comic Book Men," premiere, Sun, 10p, **AMC**. Once again proves reality TV series crave unusual subjects.

Notable: *Gabrielle Union* hosts her 5th consecutive "BET Honors, Mon, 9p, **BET**. The consistent ratings grabber includes awards for *Stevie Wonder* (and a performance) and *Maya Angelou*, who receives a tribute from First Lady *Michelle Obama*. -- **USA** (Mon, Tues, 8p) has the country's second-oldest sporting event, the Westminster Kennel Club Dog Show—only the Kentucky Derby is older.

Basic Cable Rankings
(1/30/12-2/05/12)
Mon-Sun Prime

1	USA	2.3	2267
2	DSNY	1.6	1622
3	FOXN	1.5	1511
3	HIST	1.5	1501
5	TBSC	1.4	1400
6	TNT	1.2	1170
7	A&E	1.1	1127
7	ESPN	1.1	1120
9	ADSM	1	976
9	HGTV	1	944
11	FX	0.9	890
11	MTV	0.9	870
11	SYFY	0.9	869
11	FOOD	0.9	860
11	DSE	0.9	61
16	DISC	0.8	837
16	LIFE	0.8	828
16	FAM	0.8	809
16	TLC	0.8	793
16	TRU	0.8	742
16	NKJR	0.8	599
22	NAN	0.7	734
22	CMDY	0.7	713
22	TVLD	0.7	690
22	MSNB	0.7	684
22	AMC	0.7	644
22	BRAV	0.7	641
22	ID	0.7	586
29	SPK	0.6	586
29	BET	0.6	556
29	LMN	0.6	508
29	HALL	0.6	479
33	CNN	0.5	514
33	APL	0.5	470
33	EN	0.5	455
36	HLN	0.4	373
36	VH1	0.4	352
36	NGC	0.4	343
36	OXYG	0.4	330
36	WE	0.4	271
36	NKTN	0.4	223
42	TRAV	0.3	303
42	ESP2	0.3	278
42	DXD	0.3	264
42	CMT	0.3	261
42	GSN	0.3	258

*Nielsen data supplied by ABC/Disney



Sales Executive of the Year Awards
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Questions: Mary Lou French
at 301-354-1851;
mfrench@accessintel.com

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