

CableFAX Daily™

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What the Industry Reads First

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FCC Oversight: Review of Blackouts, Cable Act on Senate Commerce Agenda

There is a lot of interest this year from **Sen Commerce** in reviewing the '92 Cable Act, the **FCC's** implementation of USF, sports blackouts and incentive auctions. Those issues came up repeatedly at the cmte's hearing Tues on **FCC** oversight. On sports blackouts, Richard Blumenthal (D-CT) said FCC action is needed to eliminate them as league policies, federal rules and disputes between companies have made it difficult for fans to watch their teams play. Sports programming has changed dramatically since rules on sports blackouts were issued around 40 years ago, he said, noting the FCC launched an inquiry last year to allow public comments on his petition to eliminate sports blackouts. Blackouts are often related to retrans disputes, FCC chmn *Julius Genachowski* told the cmte. While agreeing that it makes sense to update certain provisions to end blackouts, he noted the Commission's authority might be limited. It's "one of the areas that we have to work with the committee [on]," he said. Another area that needs an overhaul is the '92 Cable Act, several committee members said. Given that a comprehensive rewrite of the Act in the next 2 years is unlikely, minor statutory changes could be helpful, Republican commish *Ajit Pai* said, referring to his earlier proposal to include MVPDs and cable service in the FCC's forbearance authority. Currently, the law allows the FCC to forbear applying any regulation of the Communications Act to telecom, enabling the removal of regulatory barriers. The Commission should have the same authority to relieve MVPDs from obsolete rules, Pai said. While Democrat commish *Jessica Rosenworcel* was on the same page regarding the need to review/update the Cable Act, she cautioned that parts of the Act still makes sense, especially when it comes to rules related to competition, consumer protection and diversity of the media. "The thing I know about cable and satellite is their rates go up year in and year out. I think that's a problem," she said. Rosenworcel also shed some light on emergency communications as the industry transitions to an all IP and wireless network. "We need to have a conversation about commercial power... A lot of people realized that in Hurricane Sandy." Specifically, lawmakers, regulators and companies should work together to identify commercial power providers and have procedures in place during emergency situations, she said. Meanwhile, several committee members targeted their questions on the Connect America Fund. *Mark Pryor* (D-AK) asked if the FCC can do some incremental funding in high-cost areas as it works on the longer-term implementation process. Implementation could be challenging, Genachowski acknowledged. Though the plan is to connect rural communities, "we need to do it in a way that we are not overspending," he said. Pai had some concerns regarding the effect of the unpredictability of the rules. "By and large, we need to listen to rural carriers" regarding the planning process, he said. His fellow Republican commish *Robert McDowell* sounds alarm bells over World Conference for International Telecom for creating Internet chokepoints. "We are losing the fight for Internet freedom," he said, urging the Congress to amply the call for more Internet freedom. "This year, Congress can help by speaking loudly and clearly to support policies that promote Internet freedom and global prosperity as we head toward the ITU's plenipotentiary meeting in 2014," he said. Looking ahead,

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"What the Industry Reads First"

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Pryor, head of the communications subcommittee, intends to keep the subcommittee busy looking at the incentive auction in a series of hearings. "I am looking forward to facilitating a bipartisan exchange of views on key policy issues in today's fast-changing information and communication technology industry," he said.

WiFi: CableLabs' WiFi application software, co-developed with **Cablevision** and member companies, has been licensed to **mPortal** for further distribution to the cable industry, providing an improved subscriber mobile experience, CableLabs said. The app software allows cable companies to offer value-added services to their WiFi offerings, including WiFi detection to help subs find the best cable WiFi connection near their current location. It also allows mapping of the WiFi locations with details on the performance and quality of the WiFi access. In addition, it enables WiFi testing services to determine the quality of experience and available bandwidth of the customer's current WiFi service.

Wireless: The **FCC** OKed the **T-Mobile/MetroPCS** merger, following **DOJ's** approval last week. The companies announced plans to merge in Oct. Under the deal, prepaid carrier MetroPCS will own 26% of the combined company while T-Mobile parent **Deutsche Telekom** will own the rest.

Speed Game: Netflix upped its speed-judging game with a dedicated ISP speed index page, featuring Feb ranks of ISP speeds worldwide with breakdowns for individual nations. In the US, there hasn't been much change: **Google Fiber** was once again the speed leader with average speed of 3.35 Mbps, followed by **Cablevision** (2.35 Mbps) and **Suddenlink** (2.19 Mbps). **Cox** (2.12 Mbps) jumped to 4th, followed by **Verizon FiOS**, **Charter**, **Comcast** and **Mediacom**. **Time Warner Cable** was #9 with average speed of 2.04 Mbps, followed by **Bright House Networks** and **AT&T U-Verse**. **Clearwire** was at the bottom of the list with average speed of 1.25 Mbps.

Comcast Doings: Comcast is setting aside some money for 3rd party R&D with the launch of its Technology R&D Fund. In a blog post, the company said the fund will support long-term research that are "of mutual interest to Comcast and the research community." It also will fund open source software development. In addition to financial support, Comcast will offer researchers access to network data and its own network of engineers. Initial grant recipients include a new open home gateway forum focusing on developing open source-based home gateway software and **RIPE Atlas**, RIPE NCC's global Internet measurement network that will now expand in the US.

CableFAX Roundtable: Thanks to everyone who participated Tues in the first of many *CableFAX* Roundtables, including one in the works for the **Cable Show** in DC. A group of programmers, operators and other industry execs discussed everything from TV Everywhere to virtual MSOs and the complexities involved. Putting aside squabbles over TVE rights and bundling, one worry is just what TV Everywhere means to the consumer. "I'm concerned it will fail to meet consumer expectations as long as we use it as a way to keep consumers enrolled in \$100 video packages," said *Bob Gessner*, pres of **MCTV** (formerly **Massillon Cable**). "The younger consumers figure it's 'TV on my terms.' We need to prepared for the [the reaction] that this is just cable TV on a smaller screen." There also was some hand-wringing over the slowness at which some TV Everywhere rights deals are getting done, particularly for small distributors. But programmers in attendance said they sometimes face the exact same pressures with larger distributors wanting to conduct TVE negotiations with the largest nets first. And top of mind for the nets is coming up with a business model. "A lot of it is unknown," **Crown Media Family Nets** evp, distribution *Laura Lee* said, rattling off a list of unknowns—from whether it will cannibalize the

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Best Advice/Motto Series



"Don't get too excited about the wins or too upset about the losses; they all even out."

Tonia O'Connor
President, Distribution Sales and Marketing
Univision

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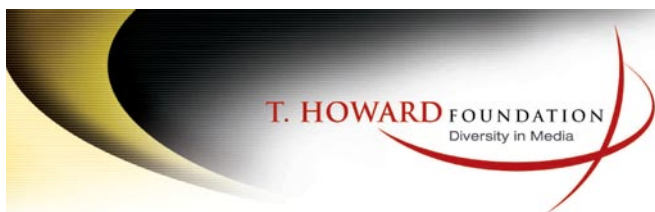
linear product to getting rights from content producers to the ongoing measurement problem. As programming costs continue to rise, some of the operators in the room said they'd be happy to ditch linear TV and become a broadband pipe with some important caveats. **Shentel's Earle Mackenzie** said it could work to be the pipe if a distributor also controlled the middle mile. Otherwise, the costs for being the backbone for a virtual MSO service could be too restrictive. Operators also would need to be sure they could recoup network costs. And repeatedly that brought up the need to be able to meter bandwidth.

Ratings: History's 1st scripted series " Vikings" scored 4.6m in total viewers Sun at 10pm, making it the most-watched cable series in the hour. It was TV's #1 show among men 25-54, with around 1.2m in. -- **FOX Deportes** finished Feb as the #1 Spanish sports cable net across all major dayparts in total viewers and 18-49 vs all Spanish sports cable net, partly thanks to franchise news and soccer talk shows "Central Fox" and "La Ultima Palabra," according to **Nielsen** data.

Programming: Fox Sports signed its 1st **NCAA** Division I Lacrosse deal. Under a multi-year agreement with ECAC Lacrosse, starting with the '14 season, the ECAC tournament will air on FOX Sports 1, Fox' new national sports network set to launch in Aug. FSMG will also televise a new 'Game of the Week' series. It's the 1st NCAA Division I Lacrosse deal for Fox.

CableFAX Daily Stockwatch

Company	03/12 Close	1-Day Ch	Company	03/12 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	51.28	0.38	CSG SYSTEMS:	19.39	(0.03)
DISH:	35.02	0.07	ECHOSTAR:	38.21	(0.15)
DISNEY:	57.11	(0.55)	GOOGLE:	827.61	(7.21)
GE:	23.41	(0.21)	HARMONIC:	5.78	(0.04)
NEWS CORP:	30.82	(0.26)	INTEL:	21.64	(0.05)
MSOS					
CABLEVISION:	14.07	(0.2)	JDSU:	15.28	(0.12)
CHARTER:	89.50	0.55	LEVEL 3:	21.08	(0.18)
COMCAST:	40.72	(0.41)	MICROSOFT:	27.91	0.04
COMCAST SPCL:	38.77	(0.32)	RENTRAK:	21.00	(0.4)
GCI:	8.97	0.37	SEACHANGE:	11.73	0.23
LIBERTY GLOBAL:	70.92	(0.85)	SONY:	15.55	(0.41)
LIBERTY INT:	21.67	0.03	SPRINT NEXTEL:	5.92	0.06
SHAW COMM:	24.28	0.32	TIVO:	12.74	(0.11)
TIME WARNER CABLE:	91.58	0.81	UNIVERSAL ELEC:	22.03	0.28
VIRGIN MEDIA:	47.30	(0.38)	VONAGE:	2.78	(0.04)
WASH POST:	417.00	3.99	YAHOO:	22.40	(0.2)
PROGRAMMING					
AMC NETWORKS:	59.25	(0.6)	TELCOS		
CBS:	45.92	0.02	AT&T:	36.72	0.12
CROWN:	1.99	(0.12)	VERIZON:	48.36	0.55
DISCOVERY:	77.91	0.11	MARKET INDICES		
GRUPO TELEVISIA:	27.13	0.15	DOW:	14450.06	2.77
HSN:	54.73	(0.19)	NASDAQ:	3242.32	(10.55)
INTERACTIVE CORP:	43.48	(0.12)	S&P 500:	1552.48	(3.74)
LIONSGATE:	22.28	(0.05)			
OUTDOOR:	8.84	0.04			
SCRIPPS INT:	64.21	(0.11)			
TIME WARNER:	56.42	(0.84)			
VALUEVISION:	3.35	(0.03)			
VIACOM:	64.25	(0.21)			
WWE:	8.68	(0.2)			
TECHNOLOGY					
ADVANTAGE:	2.20	0.04			
ALCATEL LUCENT:	1.48	0.02			
AMDOCS:	36.14	(0.13)			
AMPHENOL:	72.66	(0.47)			
AOL:	36.85	0.01			
APPLE:	428.43	(9.44)			
ARRIS GROUP:	17.65	(0.23)			
AVID TECH:	6.96	0.01			
BLNDER TONGUE:	1.34	UNCH			
BROADCOM:	34.77	0.97			
CISCO:	21.70	(0.18)			
CLEARWIRE:	3.21	(0.03)			
CONCURRENT:	7.34	0.01			
CONVERGYS:	16.91	(0.11)			



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GUEST COLUMNIST

It Was 20 Years Ago Today...

By **Matt Polka**

Pres/CEO, American Cable Association

This year is very special because it marks the American Cable Association's 20th Anniversary. I was present at the creation back in 1993, and I'm very pleased that the independent cable community continues to deliver substantive proposals designed to make communications markets as efficient as possible.

As we go forward, ACA will seek pro-competitive changes to the retransmission consent, TV station ownership and program access rules. Last year, TV stations staged a record number of signal blackouts to rake in more money while driving up the cost of a cable subscription.

The FCC needs to adopt our view that blackouts violate the legal obligation to negotiate in good faith. Consumers subsidize broadcasters' use of free TV spectrum. Those airwaves are highly valuable, and the wireless industry would pay a fortune for them faster than you can say iPhone. It is simply unacceptable to allow TV stations to reward taxpayers' generosity by blacking out signals in order to sustain an endangered business model.

In 2013, the end of retransmission consent is justified. Short of that, we support interim signal carriage with baseball-style arbitration and with the cost paid by the side whose terms were rejected. Until ACA Members can shop for the best retrans deal, this approach will help to create a more market-oriented mechanism under current rules.

ACA is greatly troubled that dozens of TV stations are engaging in collusion in about 20 percent of local TV markets. I'm referring to the practice of separately owned TV stations serving the same local market and coordinating their retransmission consent negotiations in order to gain even more bargaining leverage over ACA Members.

ACA has documented 48 combinations in 43 different markets of Big 4 broadcasters coordinating their retrans-

mission consent negotiations, helping to drive up the price of retransmission consent by at least 22% and oftentimes by much, much more.

To end this anti-competitive activity, the FCC should hold that separately owned, same-market TV stations that coordinate retransmission consent negotiations are violating the rule that bans the ownership of more than one of the four highest-rated stations in any local TV market. Under this new FCC policy, ACA members could file complaints with the agency, or the FCC could bring enforcement actions on its own, to put an end to broadcasters' collusive conduct.

Access to programming on fair and reasonable terms will remain important in the years ahead.

With the sunset of the exclusivity ban last October, the only recourse now for an ACA Member harmed by an exclusive cable-affiliated programming deal is to file a complaint proving the contract is an "unfair act" that "significantly hinders" competition.

To give the remaining rules real teeth, the FCC should expand its definition of a buying group to include a group like the National Cable Television Cooperative, the industry's largest program buying group.

NCTC is currently unable to take advantage of program access protections because of FCC rules that require a buying group to assume full-payment liabilities of its members, or that each member agree to assume the liabilities of all other members.

By reforming the definition of a buying group, the FCC would provide NCTC with meaningful rights under the program access rules as Congress intended.

The environment for discussing our issues has never been better. Twenty years from now, I know we will look back with pride knowing that ACA remained true to its principles, no matter how tough the issue or how powerful the opposition. See you in 2033!



Matt Polka

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