

# CableFAX Daily™

Monday — March 15, 2010

What the Industry Reads First

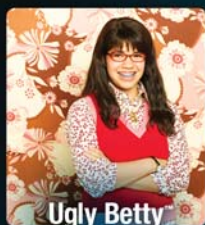
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## Program Access: Comcast-NBCU Critics Say Ruling Doesn't End Worries

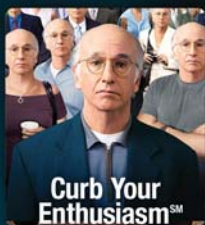
Now that the DC Circuit has said it will uphold the FCC's program access rules, will the issue die in discussions of Comcast and NBCU's proposed jv? Nah. Groups like Free Press and ACA reminded everyone Fri that program access rules are still flawed in their view. Plus, they expire in '12, leaving questions about what happens with Comcast-NBCU after that. "The FCC should consider extending the exclusive contract ban once it expires, as well as adopt wholesale reforms to the program access rules to eliminate pricing loopholes that allow the major program providers to impose unfair terms and rates on their competitors," Free Press said. The rules prevent cable operators from having exclusive contracts with affiliated cable networks. Fri's decision found the FCC was reasonable and that the prohibition continues to be necessary. ACA said conditions are needed if Comcast-NBCU is approved because there is no automatic right to continued carriage while a complaint is pending and that the rules offer no rate-setting mechanisms. "While we are pleased that the court recognized today that the FCC had substantial evidence to conclude that vertically integrated cable companies have the ability and incentive to withhold 'must-have' programming from competitors, we maintain that the current program access rules are demonstrably ineffective for competitive pay-TV content buyers because they permit rampant, unjustified price discrimination," said ACA's Matt Polka. Comcast and Cablevision asked the Court to review the FCC's '07 decision to extend the rules for 5 years. While Comcast has said it won't challenge the appeal, Cablevision is considering its options. "Like the must carry and retransmission consent regime that allowed ABC to blackout the Oscars for 3mln New York households this week, the program access rules are based on an outdated and obsolete view of the competitive landscape," Cablevision said (the 2 worked out an agreement that got ABC back up about 15 minutes into the Oscars telecast). "In today's highly competitive video marketplace these rules do nothing but tilt the playing field in favor of phone companies and broadcasters to the detriment of fair competition and consumers." Comcast's response focused on cable's favorite punching bag—NFL Sunday Ticket. The MSO said it was unfair DirecTV keeps exclusivity to that and NASCAR Hot Pass but welcomed the court's recognition that the marketplace is more competitive today. Stated the court: "We expect that if the market continues to evolve at such a rapid pace, the Commission will soon be able to conclude that the exclusivity prohibition is no longer necessary to preserve and protect competition and diversity in the distribution of video programming," the 2-1 decision said. Judge Brett Kavanaugh dissented, saying the rules were discriminatory and in violation of the 1st Amendment.

**He Said What?** Kudos to TVNewsCheck's Harry Jessell for unearthing a speech former FCC chmn Reed Hundt recently gave and that had the much of the industry talking Fri. The video link to the Columbia Univ event wasn't working for us, but Hundt reportedly chatted about his decision as FCC chmn to promote the Internet over broadcasting. "The broadband plan that will be published on March 17 actually will reflect... the end of the era of trying to maintain over-the-air broadcast as the common medium and the beginning of a very detailed, quite substantive, commitment to having broadband, the son of narrowband, be the common medium," Hundt reportedly said. Remember that Julius Genachowski and Blair Levin were

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both staffers for Hundt. TVNewsCheck reported that Hundt said the FCC tried to suppress broadcasting and that he was astonished the govt promoted broadcasting last year by subsidizing converter boxes. "This is a little naughty: We delayed the transition to HDTV and fought a big battle against the whole idea," he's quoted as saying. Noting that the video to the speech hadn't worked for 3 hours, **NAB's Dennis Wharton** reminded reporters Fri that "the one-to-everyone video signal provided by local broadcasters continues to reach millions of Americans, every hour of every day." Touché.

**Retail Therapy:** With the **FCC** expressing interest in retail set-tops (and the lack of them), **NCTA** is jumping in with 7 specific principles that it says would serve as a foundation for inter-industry and govt efforts to develop a fully-competitive retail video device marketplace. And of course, they should serve as the basis for private sector solutions—not govt technology mandates. **CEA** actually likes the ideas, saying they are similar to what it has been advocating for years. But it had more to say, since its stance is that cable has blocked cable box availability at retail for 14 years. "We suspect that this reversal in position stems more from the fact that the FCC is tired of the cable industry empty promises and is ready to follow the '96 Telecommunications Act and mandate what the cable industry blocked and now suddenly embraces," CEA's statement said. NCTA's principles would give consumers the option to: purchase video devices at retail that can access MVPDs' services; purchase retail devices that can access any of an operators' service through an interface solution offered by that provider; access video content from the Net via retail and MVPDs' video devices; purchase retail video devices that can search for video content across multiple sources (cable ops, the Web, etc); easily move video between devices in their homes; be assured the benefits of continuous innovation and variety in video products, devices and services from multi-channel providers and at retail. NCTA's last principle states that the principles should be embraced by all video providers and implemented flexibly to accommodate different network architectures. "Our industry is committed to providing content to consumers where and when they want it, on all possible consumer devices, and for those devices to be innovative platforms for new applications," NCTA chief *Kyle McSarrow* wrote in a letter to FCC chmn *Julius Genachowski* Fri.

**At the Portals:** Ranking **House Communications** subcmte member *Cliff Stearns* (R-FL) wants to know how much the National Broadband Plan is costing, saying that broadband availability appears to be pretty high. A number of public briefings suggest the number of homes without availability is 7mln (about 5%), Stearns wrote in a letter to **FCC** chmn *Julius Genachowski*. He also wants to make sure the plan isn't a place for "hidden agendas," like net neutrality. -- "Elmo likes his Internet fast, fast, fast! Yeah, baby!" The furry, red "Sesame Street" star joined **FCC** chmn *Julius Genachowski* Fri as he outlined National Broadband Plan recommendations aimed at kids. Those include updating the E-rate program to make it easier for children to get online at schools and libraries and establishing a National Digital Literacy Program. Look for more to come on the FCC's overall children's agenda—including discussions on advertising and childhood obesity.

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**Research:** **Leichtman Research's** latest data reiterates slowing growth of broadband penetration, as the top cable ops added more than 2.3mln broadband subs in '09, or 73% of the corresponding '08 total, while the top telcos added 1.7mln last year, a 23% YOY dip. In 4Q, cable ops added 580K broadband subs, telcos 310K. The top 5 providers in net '09 broadband adds: **Comcast** (1mln), **AT&T** (712K), **Time Warner Cable** (562K), **Verizon** (547K) and **Cox** (200K, estimated).

**Earnings:** **SeaChange** reported flat 4Q and full-yr rev of \$53mln and \$201.7mln, respectively, and net income of \$2.3mln (compared to \$5.8mln a yr ago) and \$8mln (\$13.9mln). Subscription rev from **Comcast** and **Cox** helped the co's software segment, while lower VOD server shipments to smaller North American cable customers led to server and storage unit declines. -- **Ascent Media's** 4Q rev totaled \$117.2mln (-5.4%), its full-yr rev \$453.7mln (-22%). Declines stemmed from the content services segment's loss of systems integration rev; the creative services segment grew both its 4Q and full-yr rev.

**Mobile:** Qualified **Sprint** wireless customers now have access to **ESPN Mobile TV**, which during Mar and Apr will feature more than 100 live events and 250 coverage hours, including NBA playoff games and live studio shows. -- **FLO TV** added to its lineup **CNN Mobile**, which features programming from CNN/US, CNN Intl, HLN and CNN.com.

**Advertising:** **NCC Media** expanded its partnership with Premium Network to include ad representation for **Premi-umChannels.com**, highlighted by a consumer audience of 45 niche category channels. -- **The Weather Channel** renewed its licensing deal for **Invision's** DealMaker Ad Sales System.

**Programming:** More ch-ch-ch-changes at **Discovery** and **Oprah's OWN Net**. Programming chief *Jamila Hunter* is said to be transitioning to a new role that would have her focus on specific projects vs all content, *The Wrap* reported, quoting sources. Sources confirmed that a trio of unscripted execs—*Rod Aissa, Michele Dix and Drew Tappon*—are being brought in (deals still being finalized). -- **Veria TV** inked partnerships with *Yoga* magazine and *New Living Magazine*, a holistic health and fitness publication based in the NY area. -- An **ESPN Sports Saturday** programming block launches Apr 3 on **ABC**, offering in a 2-hr window new series "Winner Bracket," featuring debate and recap of the week in sports, and content, including films from doc series 30 for 30 and installments from interview-focused "Homecoming with Rick Reilly." -- Live action movie "Scooby Doo! Curse of the Lake Monster" premieres on **Cartoon Net** this fall as a follow-up to "Scooby Doo! The Mystery Begins," which earned a 4.0/3.90mln to become the net's most-watched telecast in history.

**People:** *Yvette Kanouff* was named pres, **SeaChange** after the co reached a separation agreement Mar 10 with former pres/COO *Ed Dunbar*. Kanouff maintains her role as chief strategy officer. Also, SeaChange promoted *Erwin van Dommelen* to pres, software. -- *Karen Peltz* was named deputy chief in the **FCC's** Consumer Bureau.

**Honors:** Comcast MI region govt affairs manager *Gerald Smith* was inducted into the MI Chapter of the **National Academy of TV Arts and Sciences'** Silver Circle. -- **History's** "Battles B.C." got best newcomer award at the recent TV of Tomorrow Show and best iTV Program at **DISH's** 9th Annual Interactive TV Summit Awards. **Ensequence** and **History** collaborated on the show's interactive content (*Cfax* 3/9/09).

**Business/Finance:** **Lionsgate's** board unanimously rejected the unsolicited partial tender offer from *Carl Icahn* to buy up to 13,164,420 common shares for \$6 per in cash, deeming it "financially inadequate and coercive and... not in the best interests of Lionsgate and its shareholders and other stakeholders." The deal would have pushed Icahn's ownership to approx 29.9% of Lionsgate's outstanding common shares. -- **Collins Stewart's** expecting a bounce in **Liberty Starz** shares owing largely to the co's extended output deal with **Disney** as "the benefits of the... Disney renewal outweigh the concerns about asset/debt re-allocation and a potential delay in the airing of the *Spartacus* second season" due to star *Andy Whitfield's* Non-Hodgkins Lymphoma diagnosis, wrote analyst *Tom Eagan*, who maintained his 'buy' rating and \$57 price target on LSTZA shares. -- Effective Mar 12, **Verizon** shares are dually listed on the NYSE and NASDAQ under the ticker "VZ."

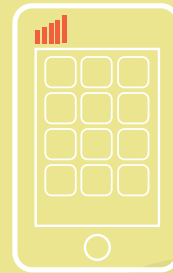
## TV Everywhere: Is it Going Anywhere?

CableFAX Webinar | Tuesday, March 23, 2010 | 1:30-3pm ET

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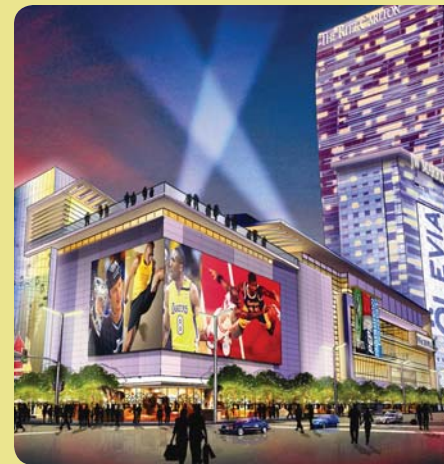
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CableFAX Week in Review

Company	Ticker	3/12 Close	1-Week % Chg	YTD %Chg
<b>BROADCASTERS/DBS/MMDS</b>				
BRITISH SKY:	BSY	36.16	6.17%	(0.17%)
DIRECTV:	DTV	34.87	(0.23%)	4.56%
DISH:	DISH	21.69	2.41%	4.43%
DISNEY:	DIS	33.69	1.41%	4.47%
GE:	GE	17.04	4.22%	12.62%
NEWS CORP:	NWS	16.51	(1.78%)	3.71%

<b>MSOS</b>				
CABLEVISION:	CVC	24.09	(0.78%)	(6.7%)
COMCAST:	CMCSA	17.42	(0.06%)	3.32%
COMCAST SPCL:	CMCSK	16.65	(0.18%)	4.00%
GCI:	GNCMA	5.89	(1.67%)	(7.68%)
KNOLOGY:	KNOL	13.86	8.20%	26.92%
LIBERTY CAPITAL:	LCAPA	33.56	1.11%	40.54%
LIBERTY GLOBAL:	LBTYA	28.33	0.21%	29.42%
LIBERTY INT:	LINTA	14.06	4.38%	29.70%
MEDIACOM:	MCCC	5.90	15.69%	31.99%
RCN:	RCNI	15.32	1.12%	41.20%
SHAW COMM:	SJR	20.19	0.25%	(1.85%)
TIME WARNER CABLE:	TWC	48.57	0.58%	17.35%
VIRGIN MEDIA:	VMED	17.45	2.77%	3.68%
WASH POST:	WPO	446.15	(0.51%)	1.49%

<b>PROGRAMMING</b>				
CBS:	CBS	14.60	(0.34%)	3.91%
CROWN:	CRWN	1.85	2.21%	27.59%
DISCOVERY:	DISCA	32.44	2.82%	5.77%
GRUPO TELEVISIA:	TV	20.35	5.44%	(1.97%)
HSN:	HSNI	29.53	5.84%	46.26%
INTERACTIVE CORP:	IACI	23.76	0.25%	16.02%
LIBERTY:	L	37.56	0.16%	3.33%
LIBERTY STARZ:	LSTZA	52.50	(1.78%)	13.76%
LIONSGATE:	LGF	5.77	4.15%	(0.69%)
LODGENET:	LNET	6.77	(1.88%)	22.42%
NEW FRONTIER:	NOOF	2.19	22.18%	15.71%
OUTDOOR:	OUTD	6.30	1.61%	8.62%
PLAYBOY:	PLA	3.42	4.59%	6.88%
RHI:	RHIE	0.31	(6.06%)	0.00%
SCRIPPS INT:	SNI	41.99	2.87%	1.18%
TIME WARNER:	TWX	30.54	0.00%	4.80%
VALUEVISION:	VTV	4.01	(12.45%)	(16.46%)
VIACOM:	VIA	33.36	3.47%	5.90%
WWE:	WWE	17.27	(3.79%)	12.65%

<b>TECHNOLOGY</b>				
3COM:	COMS	7.74	0.26%	3.20%
ADC:	ADCT	7.20	2.86%	15.94%
ADVANTAGE:	AEY	2.20	(1.35%)	11.68%
ALCATEL LUCENT:	ALU	3.50	15.13%	5.42%
AMDOCS:	DOX	30.44	2.84%	6.69%
AMPHENOL:	APH	44.15	0.55%	(4.4%)
AOL:	AOL	25.46	(1.09%)	9.36%
APPLE:	AAPL	226.60	3.49%	7.53%
ARRIS GROUP:	ARRS	12.25	18.70%	7.17%
AVID TECH:	AVID	14.27	(1.72%)	11.83%
BIGBAND:	BBND	3.28	10.07%	(4.65%)
BLNDER TONGUE:	BDR	1.10	10.00%	(3.51%)

Company	Ticker	3/12 Close	1-Week % Chg	YTD %Chg
BROADCOM:	BRCM	32.63	4.75%	3.69%
CISCO:	CSCO	25.88	2.66%	8.10%
CLEARWIRE:	CLWR	8.19	28.77%	21.15%
COMMScope:	CTV	29.06	6.56%	9.54%
CONCURRENT:	CCUR	5.25	9.83%	32.58%
CONVERGYS:	CVG	12.85	(1.53%)	19.53%
CSG SYSTEMS:	CSGS	21.44	3.57%	12.31%
ECHOSTAR:	SATS	20.10	(2%)	(0.2%)
GOOGLE:	GOOG	579.54	2.72%	(6.52%)
HARMONIC:	HLIT	6.71	(1.61%)	6.17%
INTEL:	INTC	21.27	2.31%	4.26%
JDSU:	JDSU	11.39	(0.26%)	38.06%
LEVEL 3:	LVL	1.59	0.00%	3.92%
MICROSOFT:	MSFT	29.27	2.38%	(3.97%)
MOTOROLA:	MOT	7.01	0.86%	(9.66%)
OPENTV:	OPTV	1.54	(0.65%)	13.24%
PHILIPS:	PHG	33.23	4.46%	12.87%
RENTAK:	RENT	18.70	(1.58%)	5.83%
SEACHANGE:	SEAC	7.30	(4.33%)	11.28%
SONY:	SNE	37.34	2.75%	28.76%
SPRINT NEXTEL:	S	3.60	8.11%	(1.64%)
THOMAS & BETTS:	TNB	38.17	(0.24%)	6.65%
TIVO:	TIVO	16.67	(4.74%)	63.75%
TOLLGRADE:	TLGD	6.47	(4.01%)	5.89%
UNIVERSAL ELEC:	UEIC	22.30	(3.67%)	(3.96%)
VONAGE:	VG	1.43	(4.67%)	2.14%
YAHOO:	YHOO	16.32	1.62%	(2.74%)

<b>TELCOS</b>				
AT&T:	T	25.62	2.52%	(8.6%)
QWEST:	Q	4.81	3.22%	14.25%
VERIZON:	VZ	29.73	1.71%	(10.26%)

<b>MARKET INDICES</b>				
DOW:	DJI	10624.69	0.55%	1.89%
NASDAQ:	IXIC	2367.66	1.78%	4.34%

WINNERS & LOSERS

THIS WEEK'S STOCK PRICE WINNERS

COMPANY	CLOSE	1-WK CH
1. CLEARWIRE:	8.19	28.77%
2. NEW FRONTIER:	2.19	22.18%
3. ARRIS GROUP:	12.25	18.70%
4. MEDIACOM:	5.90	15.69%
5. ALCATEL LUCENT:	3.50	15.13%

THIS WEEK'S STOCK PRICE LOSERS

COMPANY	CLOSE	1-WK CH
1. VALUEVISION:	4.01	(12.45%)
2. RHI:	0.31	(6.06%)
3. TIVO:	16.67	(4.74%)
4. VONAGE:	1.43	(4.67%)
5. SEACHANGE:	7.30	(4.33%)



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