

# CableFAX Daily™

Thursday — March 18, 2010

What the Industry Reads First

Volume 21 / No. 018

## More to Come? Comcast Closes CLEC Deal, Gets FCC Waivers (Mostly)

So much attention was on the FCC's National Broadband plan Tues, you probably didn't notice that the Commission also announced that it partially granted Comcast's acquisition of certain assets from CIMCO Comm. CIMCO offers local exchange telephone services to business customers in approx 298 local service areas throughout IL, IN, MI, OH and WI, in which Comcast or one of its affiliates holds a franchise to offer cable TV service. It's a deal that has implications for the rest of the industry, with pundits expecting similar cable deals down the road. The Communications Act prohibits cable companies from acquiring more than 10% financial interest (or mgmt interest) in any local exchange carrier providing telephone exchange in their franchise areas. A waiver can be granted if the FCC finds it's in the public interest and if the local franchise authorities approve the waiver. It's the LFA part that's interesting because potentially hundreds of LFAs would have had to sign off, and there appears to be no precedent for this sort of waiver. The good news for Comcast (and cable) is that the FCC didn't go that route. Instead, it gave LFAs 60 days to file on whether they approve or disapprove of the proposed wavier—and if the FCC didn't hear from an LFA within that time, it was deemed to be in approval. No LFAs weighed in with approval or disapprovals, except Detroit, which disapproved of the waiver. So, the FCC granted waivers and OK'd Comcast's acquisition of assets in every LFA, save Detroit. Customers there won't be transferred unless the LFA signs off on a waiver. It doesn't appear to be much of a stumbling block, as the deal has officially closed. The good news for cable is that if the FCC keeps this process in place, it should make future cable-CLEC deals less painful going forward. Who's next?

**Set-top Spat:** Of course bringing to mind the protracted TiVo/DISH court battle, Verizon filed patent complaints with the US Intl Trade Commission and a DE court alleging Cablevision's infringement of 5 set-top-related patents through the importation and sale of certain boxes. The former complaint seeks to bar the MSO from importing said boxes; the latter requests an injunction and monetary damages. Sources said the patents cover early inventions by Bell Atlantic, GTE and Tele-TV now used within FIOS TV. One involves downloads of operating system and app software to set-tops through a digital broadband channel, and another involves user-interface software that allows users to navigate available programs by channel, and through the selection of an anchor channel, by category. Cablevision declined to comment beyond its state-



ROGER MOOKING

EXPLORE THE WORLD WITH YOUR FORK

EVERYDAY EXOTIC

NEW ON COOKING CHANNEL COMING IN MAY

STAY HUNGRY

**COOKING**  
CHANNEL

CABLEFAX DAILY (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefaxdaily.com ● fax: 301.738.8453 ● Editor-in-Chief: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Exec Editor: Michael Grebb, 301.354.1790, mgrebb@accessintel.com ● Assoc Editor: Chad Heiges, 301.354.1828, cheiges@accessintel.com ● Asst VP, Ed Director: Seth Arenstein, 301/354-1782, sarenstein@accessintel.com ● Publisher: Debbie Vodenos, 301/354-1695, dvodenos@accessintel.com ● Advertising Mgr: Erica Gottlieb, 212.621.4612 ● Marketing Director: Carol Brault, 301.354.1763, cbrault@accessintel.com ● Prod: Joann Fato, 301.354.1681, cdaily@accessintel.com ● Diane Schwartz/VP and Group Publisher ● Subs/Client Services: 301.354.2101, fax 301.309.3847 ● Group Subs: Carol Brault, 301.354.1763, cbrault@accessintel.com

ment, which said "It is becoming increasingly clear that Verizon is having difficulty competing on the merits in the marketplace, so they are resorting to filing lawsuits and pursuing regulatory bailouts. We obviously plan a vigorous defense."

**VOD Marquee:** At 1st blush it may appear the \$30m TV/print/online campaign launched by several MSOs and Hollywood studios to promote cable's **Movies On Demand** belies a slowdown in take rates. But according to **Rentrak**, transactional on demand (excluding adult) achieved 10% YOY growth in '09, while Dec marked the biggest single month ever for Movies On Demand. As for the campaign's timing, a source said Mar will feature the greatest number of day-and-date movies ever offered in a single month through Movies On Demand, and that releases of that type constitute a major draw. "Consumers are accelerating their use of Movies on Demand because it's the easiest and fastest way for them to find and enjoy top new releases," said **Comcast** svp/gm, video and entertainment services **Derek Harrar** in a release. But consider: according to data from **Market Force Information**, 15% of consumers report using cable to rent movies, below the corresponding percentages for kiosks (41%), retail stores (36%) and online (17%). Moreover, 18% plan to increase their use of cable for rentals, a percentage that while promising, bested only retail (12%) and trailed kiosks (26%) and online (21%). Besides Comcast, **Cox**, **Lionsgate** and **Warner Bros** are also among those involved in the campaign.

**Upfront:** At **Syfy's** upfront Tues, appropriately held at the gothic **Tim Burton** exhibit at NY's Museum of Modern Art, pres **David Howe** cited the continuing success of "Ghost Hunters," which just celebrated its 100th episode, and touted a new Thurs reality block launching Jul 15: "Mary Knows Best" about the family of **Sirius Radio** host **Mary Occhino**, deemed as "the Osbournes' with psychics" by Howe; "Paranormal Investigations," which debunks supernatural myths; and "Beast Legends," which investigates mythical monsters. On the scripted side, Syfy announced "Three Inches," a humorous take on the superhero genre; "Being Human," adapted from a British series about supernatural beings cohabitating; and "Haven," adapted from **Stephen King's** The Colorado Kid. **Tracy Morgan's** "Scare Tactics" has been renewed, as has "Destination Truth," both heading into their 4th seasons. Spinoff "Ghost Hunters Academy" will launch later this year.

**At the Portals:** **Cablevision** agreed to make a voluntary contribution of \$25K to the US Treasury and provide at least 30 days advance written notice to each LFA where its use of switched digital video makes those with one-way cable products unable to view programming without additional equipment. The measures are part of an **FCC** consent decree that terminates an investigation into possible violations of rule regarding written notice prior to implementing service changes.

**Broadband Plan:** Cable fighting with utilities over pole attachment rates could be a thing of the past, with the **FCC's** National Broadband Plan advocating rates as low and as close to uniform as possible. It's not the most exciting topic, but pole attachments cost broadband providers millions annually. The plan suggests the Commission revisit applying the much lower cable rate vs the telecom rate to broadband attachments—something **NCTA** wholeheartedly endorses. The cable group also likes the plan's recommendation of overhauling USF for a new fund that would support broadband deployment in areas that haven't attracted private investment.

**Online:** **C-SPAN's** online video library (instant access to any video that has aired on the nets since '87) continues to draw accolades and press (**Cfax**, 3/17). "With this stunning new tool that packages and makes easily accessible more than two decades of federal and Congressional history, anyone with a broadband connection can be an eyewitness to history or better understand the public policy of the last quarter century," said **NCTA's** **Kyle McStarrow**. More than 160K hours of

**CableFAX**  
INNOVATION • LEADERSHIP • THE CABLE COMMUNITY  
www.cablefax.com

**Cable Connection | Spring 2010 LOS ANGELES, CA**

**Now Booking Space in CableFAX Daily and CableFAX: The Magazine!**

Advertise with CableFAX to reach multiplatform partners and executives in cable, telco, satellite, mobile, network programming and advertising during Spring Cable Connection week.

Ask about our premium position and integrated packages with e-media opportunities.

**Debbie Vodenos**, CableFAX Publisher, 301-354-1695, dvodenos@accessintel.com • **Erica Gottlieb**, Account Manager, 212-621-4612, egottlieb@accessintel.com

# BUSINESS & FINANCE

video is available at c-span.org/videolibrary. -- **Comcast** continues to roll out its broadband-usage meter, with it now available to millions in more than 20 states. It launched in D.C. on Tues. The MSO 1st piloted the meter in Portland last year (*Cfax*, 12/2). Comcast has a 250GB monthly usage cap.

**Programming:** Among **VH1** new series bowing next month include "Basketball Wives" (Apr 11), about friends who are wives, ex-wives and girlfriends of an NBA star, and "What Chilli Wants" (Apr 11), in which the TLC band member searches for love. -- **Epix** contracted writer/prod *Larry Charles* to develop satirical comedy series "iCON," centered on a fictional Silicon Valley CEO. -- **Style** tries to cash-in on the "Jersey Shore" craze with Sun's debut of "Jerseylicious," about a popular Jersey salon (10pm).

**Affiliate Relations:** **Bravo's** "Top Chef" 21-city tour expands, with stops in Seattle and Portland. Affiliate partnerships include a VIP reserved cooking demos, meet & greets, logo placements, etc.

**People:** Congrats to hard-working, **Comcast** DC flack *Sena Fitzmaurice*, who was upped to vp, govt communications. *Colleen Rooney* also was upped to vp, internal communications.

**Oops:** The 2nd season finale of **Style's** (not **E!**'s) "Giuliana and Bill" became the net's most-watched telecast ever among women 18-49 (304K).

## CableFAX Daily Stockwatch

Company	03/17 Close	1-Day Ch	Company	03/17 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
BRITISH SKY:	36.11	0.41	AMPHENOL:	44.57	0.19
DIRECTV:	34.35	(0.33)	AOL:	26.00	0.52
DISH:	21.31	(0.24)	APPLE:	224.12	(0.33)
DISNEY:	33.75	0.00	ARRIS GROUP:	12.27	0.03
GE:	18.04	(0.03)	AVID TECH:	14.17	(0.09)
NEWS CORP:	16.65	0.08	BIGBAND:	3.26	(0.06)
<b>MSOS</b>					
CABLEVISION:	23.88	0.12	BLNDER TONGUE:	1.15	0.08
COMCAST:	17.58	0.09	BROADCOM:	33.61	0.09
COMCAST SPCL:	16.80	0.12	CISCO:	26.26	0.11
GCI:	5.90	0.23	CLEARWIRE:	8.14	(0.02)
KNOLGY:	13.66	(0.14)	COMMSCOPE:	29.54	0.18
LIBERTY CAPITAL:	34.85	0.60	CONCURRENT:	5.41	0.14
LIBERTY GLOBAL:	28.93	0.72	CONVERGYS:	12.82	0.06
LIBERTY INT:	14.54	0.39	CSG SYSTEMS:	21.93	0.14
MEDIACOM:	6.10	0.15	ECHOSTAR:	20.05	(0.18)
RCN:	15.31	0.06	GOOGLE:	565.56	0.36
SHAW COMM:	20.22	(0.06)	HARMONIC:	6.44	(0.05)
TIME WARNER CABLE:	49.02	0.50	INTEL:	22.24	0.23
VIRGIN MEDIA:	17.44	0.06	JDSU:	11.46	0.09
WASH POST:	448.82	1.97	LEVEL 3:	1.68	0.08
<b>PROGRAMMING</b>					
CBS:	14.50	(0.28)	MICROSOFT:	29.63	0.26
CROWN:	1.98	0.10	MOTOROLA:	7.27	(0.11)
DISCOVERY:	32.57	0.13	OPENTV:	1.54	0.00
GRUPO TELEVISA:	20.83	0.30	PHILIPS:	33.48	0.41
HSN:	29.64	0.49	RENTRAK:	21.16	(0.28)
INTERACTIVE CORP:	24.09	0.20	SEACHANGE:	7.25	(0.05)
LIBERTY:	37.60	(0.02)	SONY:	37.80	0.23
LIBERTY STARZ:	51.81	(0.28)	SPRINT NEXTEL:	3.61	0.16
LIONSGATE:	5.95	(0.21)	THOMAS & BETTS:	38.78	0.29
LODGENET:	6.30	(0.29)	TIVO:	15.85	(0.29)
NEW FRONTIER:	2.35	0.06	TOLLGRADE:	6.62	0.12
OUTDOOR:	6.66	0.10	UNIVERSAL ELEC:	23.18	0.23
PLAYBOY:	3.78	0.19	VONAGE:	1.39	(0.03)
RHI:	0.29	(0.01)	YAHOO:	16.50	0.14
SCRIPPS INT:	41.47	(0.28)	<b>TELCOS</b>		
TIME WARNER:	31.20	0.14	AT&T:	25.90	0.05
VALUEVISION:	3.63	0.14	QWEST:	5.00	0.14
VIACOM:	33.32	(0.06)	VERIZON:	30.15	0.22
WWE:	17.12	(0.12)	<b>MARKET INDICES</b>		
<b>TECHNOLOGY</b>					
3COM:	7.63	(0.07)	DOW:	10733.67	47.69
ADC:	7.45	0.17	NASDAQ:	2389.09	11.08
ADVANTAGE:	2.21	0.01			
ALCATEL LUCENT:	3.40	(0.05)			
AMDOCS:	30.49	(0.16)			

## WHAT DO ADVERTISERS CARE ABOUT MOST?

- A) YOUR PROGRAM REACHED ONE MILLION VIEWERS
- B) YOUR PROGRAM RAISED AWARENESS AMONG SOCCER MOMS

WANT THE ANSWER? JUST ASK NIELSEN.™

ANSWER: Both! You need to prove your worth beyond the numbers, and show your advertisers that you're reaching who they want to talk to. Nielsen goes beyond the data to deliver innovative custom research solutions, so you can show what differentiates you from competitors.

For more info, visit [www.nielsen.com/media](http://www.nielsen.com/media)

Just ask **nielsen**

## Think about that for a minute...

### Proud Discovery

In January, 1985... yes, 1985, I wrote the following note in the CATAcable Newsletter regarding some folks I had just met at the Western Show:

*One new programmer was on hand. The Discovery Channel—and for my money I sure hope they work out. The channel is proposed to be advertiser supported, and it will run exclusively nature and science type programming—you know, the type of thing you see occasionally on PBS such as “The Nature of Things”*



**Steve Effros**

*and “NOVA.” Well, it seems that two enterprising young guys have gone primarily to Canada and Australia (both known for their excellent production of these types of shows) and gotten the rights to lots of programming. They now hope to put it up on satellite for all of us to deliver to subscribers. It looks very interesting,*

*the type of programming, like C-SPAN, that the industry can be proud to deliver into subscribers’ homes. This is the type of programming that can sell those folks who haven’t been sold on cable yet! Watch for it.*

Proud indeed. It’s 25 years later. Discovery Communications is now the world’s number one non-fiction media company. It reaches more than 1.5 billion cumulative subscribers in more than 180 countries through more than 100 networks worldwide. In this day and age of multiple video platforms and Internet distribution, we seem to take for granted the really great, quality programming that is now available. While there are lots of others, I usually point to C-SPAN and Discovery as my models for what I am talking about when I say that we should never let it be forgotten that they would not have existed without the American cable industry.

With the loud heralding of the government’s “broadband plan” this week and the constant discussion about needing “more competition” and new ways to create and

deliver video product, it’s incumbent on us to remind everyone that the gems they are now so used to watching on all those platforms could not have been launched without the business plans, the financing, the revenue flows that were developed in partnership with the cable industry. We should all be a little concerned and more than a little wary of all the “new plans” (or lack of them) for distribution if they cannot show, before destroying what now exists, how they, too, will finance, develop and help program development like that being done today.

I watched a preview of Discovery’s new series “Life” last week. It’s a follow-on to their award winning “Planet Earth” series. It’s a stunner. Thousands of hours of filming on virtually every continent. Years in the making and many millions of dollars, too. Be sure to watch it, and be sure to remind policy makers that we have an obligation to continue what the cable industry has done to enable this sort of programming. How is it going to happen in a world of “free” expectations and “dumb” pipes? How is it going to happen when the government stacks the deck with “retransmission consent,” which guarantees that the lowest-common-denominator programming can leverage the highest prices? We need to know before new business models are mandated, not after. Then it’s too late.

We have helped to support some of the finest, most educational, civic-minded, inspiring programming ever created. Let’s make sure folks know it doesn’t happen without a lot of thought, work, and planning. It takes money, vision, and the ability to protect brilliant intellectual property that has value. A “dumb pipe” didn’t spawn Discovery, C-SPAN and the like; a lot of dedicated people in the cable industry did. We have reason to be proud.

*Steve*

T:703-631-2099  
steve@effros.com

For **group**  
**subscriptions to**  
**CableFAX Daily**  
or company-wide access  
contact *Carol Brault* at  
[cbrault@accessintel.com](mailto:cbrault@accessintel.com)

# CORPORATE LICENSES



**CableFAX Daily™**

## WHAT THE INDUSTRY READS FIRST.