

# CableFAX Daily™

Friday — March 18, 2011

What the Industry Reads First

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## Portal Preview: For Whom the Pole Tolls

At our deadline, the **FCC** was expected to release a preliminary agenda for next month's open meeting that may include 2 items beneficial to cable. Almost definitely on the agenda, and expected to receive unanimous passage, will be an order establishing the cable pole attachment rate as the uniform rate for all providers. Cable's rate is lower than the telco rate attachment rate. While it would obviously be good news for CLECs (and ILECs are hoping to successfully argue to be included in the order), it's also a positive for cable because it provides regulatory certainty on what the rate is and would prevent utilities from arguing services such as VoIP qualify for a telco rate instead of the cable attachment rate. **Bright House** has firsthand experience with the latter. It has 4+ year dispute with **TECO**, which alleges the MSO owes years of back fees at the telecom rate because its attachments are used to provide customers with VoIP. Bright House argued at the FCC that utilities have misinterpreted Congress' view while pole owners claim it specifically recognized that the telecom rate would be substantially higher than the cable rate. "If you look at the statute carefully, Congress said you can't charge higher than the upper limit of the cable rate," said **Hogan and Lovells' Dan Brenner**, who is representing Bright House at the FCC. "The rate was too high under the FCC's 1998 order. The FCC's proposed rule is not only good for broadband, but you also get a rate regime more consistent with the statute." The issue has been around for years, but the National Broadband Plan has given it new light. The agenda for the FCC's Apr 7 meeting may also contain a wireless roaming order designed to compel wireless carriers—especially **AT&T** and **Verizon**—to open their networks up for data roaming, like they already have to do for voice. Smaller wireless players and cable have been pushing for this, saying it's necessary for wireless investment and arguing that large carriers have the power and financial incentive to rebuff commercially reasonable roaming agreements. AT&T and Verizon are vehemently opposed to the order. **Cox**, which will unveil its plans for offering wireless service in New England later this month, has urged the FCC to establish a "shot clock," or time limit, for negotiation of roaming agreements, backstopped by the possibility of Commission mediation or arbitration.

**Retrans: ACA** wants the **FCC** to condition or block the sale of **ABC Topeka** affil **KTKA** (owned by **Free State**) to **PBC Broadcasting**, saying PBC has a "track record of creating local market TV station duopolies for the purpose of

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gaining undue bargaining leverage over cable and satellite TV operators.” Topeka’s **NBC** affil and **Fox** affil are owned by **New Vision TV**, which ACA claims has created virtual duopolies with PBC in Youngstown, OH, and Savannah, GA. In addition, the PBC-New Vision stations jointly negotiate retrans consent, ACA said. “If this very troubling transaction is allowed to go through unchanged, Topeka’s pay television viewers will suffer irreparable economic harm either by paying higher subscription rates or losing total access to as many as three of Topeka’s Big Four stations at the same time,” ACA pres/CEO *Matt Polka* said. If the FCC doesn’t block the sale outright, ACA wants a condition that would prevent the ABC station from jointly bargaining retrans with another TV station in the DMA. Five small cable providers (**Giant, WTC, Carson, Mediacom** and **Twin Valley**) operating in the Topeka DMA filed declarations with the FCC in support of ACA’s petition. All 5 have retrans agreements with KTKA that expire Dec 31.

**AETN Shuffle:** *Robert Sharenow* is moving from **A&E** over to **Lifetime** as evp, programming, filling the spot vacated by *JoAnn Alfano* earlier this month. *David McKillop*, previously svp, dev and programming for **History**, becomes evp, programming for the **A&E** brands. *Dirk Hoogstra*, vp, dev & programming at History, was upped to svp, programming for the History brands. Sharenow and Hoogstra will report to Lifetime and History chief *Nancy Dubuc*, while McKillop will now report to A&E, **BIO** head *Bob DeBitetto*.

**March Madness:** No word on whether **CBS** boss *Les Moonves* and **NCAA** pres *Mark Emmert* responded to written requests from *Sen Richard Blumenthal* (D-CT) and *Rep Joe Courtney* (D-CT) that Connecticut CBS affil **WFSB** be allowed to air the UConn game Mar 17. The game’s feature on **TNT** would mean at least 150K state households would go without access. -- **Time Warner Cable** launched **truTV HD** earlier this week in NYC and parts of OH, NC and New England (including upstate NY), while **Bright House** added the net Tampa, Orlando, Indianapolis, Birmingham and the Detroit area. Of note: appearing on truTV either Mar 17 and 18 will be Syracuse, Duke, Michigan and Xavier. -- **truTV** suffered a regression during its 2nd night of March Madness coverage, scoring 2.27mln total viewers over 2 games Wed night vs 2.4mln Tues. The UT-San Antonio-Alabama State game earned 1.01mln and a 0.7 rating, the VCU-USA tilt 1.25mln and a 0.8.

**In the States:** **Charter**’s residential and business phone subs will get free direct-dial long distance calls to Japan through Apr 30, an offer that’s retroactive for calls placed from Mar 11. -- **Epix** is highlighting its step into the boxing ring Sat with a 14-day free trial of **EpixHD.com** available through the site. The trial includes the *Klitschko-Solis* bout plus 3K movies, music and comedy specials. -- **Midcontinent Comm** tapped **Clearfield** for scalable fiber solutions to service its 250K subs in ND, SD and parts of MN.

**Japan Crisis:** **TV Japan** is extending its free preview with affiliates through Mar 31. The premium intl net opened up its signal to non-subs after the Japan earthquake and tsunami. The preview was supposed to end Thurs, but given the on-going crisis, it has opted to extend it. -- **CABLEready** and **Re: Source Media** are partnering to support relief efforts in Japan through the American Red Cross, Salvation Army and GlobalGiving. On Mar 26, **CNBC World** will air in the US “Through the Eye of the Storm: A Celebration of Japan,” a showcase of Japan featuring content from 2 series filmed by Re: that instead of commercial breaks will feature calls to action to support the charities. The companies are offering any net an HD or SD master free of charge provided the program can be scheduled to attract the most support.

**Advertising:** With newspapers the big loser and spot TV the runaway winner, **Kantar Media** said total US ad expenditures increased 6.5% in ’10 to \$131.1bln, including +7% in 4Q alone. Powered by political ads, spot TV led TV media with 24.2% in ’10 ad spending growth, followed by Spanish-language TV (+10.7%) on World Cup strength, cable (+9.8%) on higher sell out levels, network (+5.3%) and national syndication (-2.8%). Overall media totals: Internet display (+9.9%), outdoor (+9.6%), radio (+7.6%), FSIs (+5.4%), magazines (+2.9%) and newspapers (-3.5%).

**Earnings:** **shopNBC**’s 4Q included a net sales increase of 15.2% to \$178.8mln along with adjusted EBITDA of \$8mln, compared to a loss of \$1.3mln a year ago, but investors hammered VVTV shares (-6.88%) anyway. The company’s net sales shipped rose 4.3%, new customers increased 10.9% and Internet sales penetration jumped 510 basis points to 44%.

**Ratings:** Through we’re not sure if it included anything but hair jokes (oh, so easy), the “**Comedy Central** Roast of *Donald Trump*” laughed it up with 3.5mln total viewers and a 5.50 rating among men 18-24 to help deliver the net’s most-watched Tues prime ever among the 2 metrics.

**Programming:** **truTV**’s “Police POV” (Apr 19) uses camera tech developed by **Taser Intl** to offer viewers access to officers’

# BUSINESS & FINANCE

points-of-view during confrontations and chases. -- **Bio's** in the *Charlie Sheen* game with "Charlie Sheen: Bad Boy on the Edge" (Sun), which chronicles the actor's career and missteps. -- **MTVN** is bringing back "120 Minutes," putting it on **MTV2** as a monthly show later this year and a weekly online show, "120 Seconds," starting Fri.

**Stork Visits:** **Rainbow** vp, corp comm *Georgia Juvelis* and **Animal Planet** vp, dev *Charlie Foley* welcomed their own spin-off, *Declan Rhys Connell Foley*, on Mar 1 (7lb, 9oz; 22 in).

**On the Circuit:** **ACC's 6th Cable Communications Institute** will take place May 4-6 in NYC. The graduate-level program is produced in cooperation with the S.I. Newhouse School of Public Communications. Space is limited to the first 25 qualified applicants. More info at [www.cablecommunicators.org](http://www.cablecommunicators.org). -- **Comcast** evp *David Cohen* will serve as honorary chair for the **NAMIC Annual Awards Breakfast**, slated for June 16 in Chicago as part of Cable Connection-Spring.

**People:** *Jeff Wachtel* and *Chris McCumber* were named co-presidents, **USA**, and will jointly oversee strategic direction and ops for the net across all platforms while reporting to **NBCU Cable Ent and Cable Studios** chmn *Bonnie Hammer*. *Wachtel* previously served as pres, original programming, *McCumber* as evp, marketing, digital and brand strategy. -- **Rainbow Media** elevated *Betsy Rodgers* to svp, legal and business affairs.

## CableFAX Daily Stockwatch

Company	03/17 Close	1-Day Ch	Company	03/17 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DIRECTV:	44.95	0.32	BLNDER TONGUE:	1.97	0.00
DISH:	23.66	0.39	BROADCOM:	39.39	0.50
DISNEY:	40.76	0.16	CISCO:	17.00	(0.05)
GE:	19.22	0.27	CLEARWIRE:	5.37	(0.1)
NEWS CORP:	17.12	0.19	CONCURRENT:	6.14	0.15
<b>MSOS</b>					
CABLEVISION:	34.84	0.50	CONVERGYS:	13.61	0.15
CHARTER:	47.05	1.07	CSG SYSTEMS:	19.03	0.02
COMCAST:	24.07	0.64	ECHOSTAR:	35.15	0.59
COMCAST SPCL:	22.65	0.55	GOOGLE:	561.36	4.26
GCI:	9.61	(0.07)	HARMONIC:	8.42	(0.09)
KNOWLOGY:	12.93	0.13	INTEL:	19.90	0.09
LIBERTY CAPITAL:	71.64	0.13	JDSU:	20.16	(0.92)
LIBERTY GLOBAL:	40.75	0.13	LEVEL 3:	1.27	0.01
LIBERTY INT:	15.55	0.20	MICROSOFT:	24.78	(0.01)
SHAW COMM:	20.38	0.14	RENTRAK:	23.05	0.42
TIME WARNER CABLE:	67.47	(0.22)	SEACHANGE:	9.25	UNCH
VIRGIN MEDIA:	26.81	0.38	SONY:	31.40	1.52
WASH POST:	422.08	4.57	SPRINT NEXTEL:	5.06	0.20
<b>PROGRAMMING</b>					
CBS:	23.25	0.40	THOMAS & BETTS:	55.16	0.51
CROWN:	1.91	0.01	TIVO:	8.42	0.01
DISCOVERY:	38.82	0.06	TOLLGRADE:	10.03	0.05
GRUPO TELEVISIA:	22.99	0.21	UNIVERSAL ELEC:	27.20	1.00
HSN:	30.75	(0.03)	VONAGE:	3.89	(0.03)
INTERACTIVE CORP:	28.81	(0.13)	YAHOO:	15.86	(0.05)
LIBERTY:	41.85	0.46	<b>TELCOS</b>		
LIBERTY STARZ:	77.95	0.45	AT&T:	27.74	0.41
LIONSGATE:	5.76	(0.08)	QWEST:	6.78	0.23
LODGENET:	3.10	(0.01)	VERIZON:	35.33	1.03
NEW FRONTIER:	1.83	(0.02)	<b>MARKET INDICES</b>		
OUTDOOR:	6.98	0.11	DOW:	11774.59	161.29
SCRIPPS INT:	49.35	0.60	NASDAQ:	2636.05	19.23
TIME WARNER:	35.07	0.04	S&P 500:	1273.72	16.84
VALUEVISION:	6.50	(0.48)			
VIACOM:	49.85	0.37			
WWE:	12.01	(0.05)			
<b>TECHNOLOGY</b>					
ADVANTAGE:	3.06	0.01			
ALCATEL LUCENT:	5.05	0.04			
AMDOCS:	27.99	0.02			
AMPHENOL:	54.81	0.32			
AOL:	18.54	(0.14)			
APPLE:	334.64	4.63			
ARRIS GROUP:	11.85	(0.11)			
AVID TECH:	20.96	(0.38)			
BIGBAND:	2.40	(0.01)			

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**PROGRAMMER'S PAGE** with Chad Heiges and Seth Arenstein

**Media Industry Needs Green Thumb**

With new tech raining down on the media industry in sheets, there are bound to be weeds. The latest OTT play that's no doubt bringing fingers to Weed-B-Gon triggers is **Zediva**, which emerged from beta testing Wed to offer online access to movies for \$1.99/rental or \$10 for 10. Those prices are sure to draw the ire of Hollywood, cable VOD and even **Netflix**—yet assuredly the interest of consumers as well. Zediva.com, in fact, was closed to new registrants Thurs for an alleged traffic surge. “We sure are a busy bunch of monkeys trying to keep up with all our new customers!,” reads the site. Monkey business may aptly describe the company’s gambit. It buys film DVDs upon release and uses a “tech center” full of DVD players to play them and ultimately stream the content to computers. Zediva believes it’s compliant with copyright laws by virtue of the 1st-sale doctrine, which allows a purchaser to transfer a particular, lawfully-made copy of the protected work without permission once it has been obtained. It’ll be interesting to see both the force that’s marshaled in protest from Hollywood, and if Zediva will join **ivi TV** and **FilmOn.com** on the compost pile or grow into a player. If left to sprout, how long before the company begins to offer TV shows? Irrespective of what happens with Zediva down the road, the company’s emergence should only underscore the myriad threats to traditional content models in the eyes of cable ops and programmers who can’t seem to see the forest for the trees. Look, I get that effective and fair monetization of content is imperative, not to mention a mercurial and tricky endeavor. But given the rights squabbles inherent to **Time Warner Cable’s** new iPad app, it seems to me that ops and programmers must better align as friends in the **TV Everywhere** era, not as frienemies. After all, weeds are everywhere. *CH*

**Worth a Look:** “The Pee-Wee Herman Show on Broadway,” Sat, 10p, **HBO**. Move this to “Highlights” if you were a fan of the rubber-faced comic’s kiddie show of the ’80’s. If not, it’s tough to get in on the joke. The audience in the Sondheim Theatre makes it a bit easier—it roars in all the right places, but neophytes will remain befuddled. -- “Marcel’s Quantum Kitchen,” premiere, Tues, 10p, **Syfy**. Give Syfy huge style points for this reality series that follows “Top Chef” runner-up *Marc Vigneron* and his liquid nitrogen-filled cuisine. But is it so unlike garden-variety Syfy fare that the hard core will tune out? -- “The Fabulous Beekman Boys,” season II premiere, Tues, 10p, **Planet Green**. A modern-day “Green Acres” minus *Eva Gabor*, city boys Brent and Josh attempt to make green at their green farm. SA

**Notable:** If your colleagues seem depressed Mon it might be because they’re contemplating life sans “Big Love,” which ends Sun (**HBO**, 9p). Love has big shoes to fill. We’re still debating the last ep of “The Sopranos” and few can forget the coda for HBO’s “Six Feet Under.” Will BL’s finale measure up? -- From Big Love to looking for love, **TV Land’s** “Hot in Cleveland” bows out, for the season only, Wed at 10p. SA

Basic Cable Rankings (3/07/11-3/13/11) Mon-Sun Prime			
1	USA	2.1	2149
2	DSNY	1.9	1845
3	FOXN	1.7	1682
4	TNT	1.4	1445
4	HIST	1.4	1426
4	ESPN	1.4	1367
7	NAN	1.2	1235
7	FX	1.2	1160
9	TBSC	1.1	1076
9	CNN	1.1	1066
9	A&E	1.1	1066
9	FAM	1.1	1049
13	SYFY	1	1033
13	MTV	1	998
13	HGTV	1	972
13	LIFE	1	972
17	ADSM	0.9	888
17	TRU	0.9	868
17	TLC	0.9	865
17	NKJR	0.9	638
21	FOOD	0.8	844
21	TVLD	0.8	763
21	DISC	0.8	763
21	MSNB	0.8	752
25	CMDY	0.7	709
25	BRAY	0.7	701
25	AMC	0.7	664
25	BET	0.7	654
25	ID	0.7	469
30	SPK	0.6	631
30	EN	0.6	558
30	LMN	0.6	458
33	HALL	0.5	431
33	NGC	0.5	351
35	VH1	0.4	411
35	ESP2	0.4	396
35	TRAV	0.4	383
35	APL	0.4	377
35	OXYG	0.4	330
35	GSN	0.4	294
35	SOAP	0.4	270
35	NKTN	0.4	248
35	NBAT	0.4	211
35	HMC	0.4	143
45	CMT	0.3	322
45	HLN	0.3	308

\*Nielsen data supplied by ABC/Disney

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