

CableFAX Daily™

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What the Industry Reads First

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Conference Fun: DirecTV Touts HD; Cable Focuses on Growth

With Spring comes warm weather, flowers and apparently competitive sniping. In discussing DirecTV's plans to launch 100 high-def channels at the **Bank of America** media conference in NYC on Wed, **DirecTV** CFO *Mike Palkovic* said its HD lineup will include high-def versions of well known nets like **USA** and **Weather Channel** as well as sports offerings. But he made a dig at **Rainbow's Voom** HD channels and rival **DISH Networks'** carriage of them, saying DirecTV had no plans to carry them, and "there's nothing like that that people would consider not really quality channels." Ouch. As for **Liberty's** proposed acquisition of a 39% stake in DirecTV, Palkovic expects *John Malone & Co* to bring value in terms of distribution and technology expertise. DirecTV isn't spending much, if any, time focusing on a possible merger with **EchoStar**, he said. Though he does believe that there have been significant enough changes in the competitive landscape that such a deal could receive regulatory approval (he pointed specifically to telco's entry into cable and the emergence of Internet video). As for the still missing broadband component: "We think long-term it'll benefit us, but it's not a have-to-have today." **Conference Roundup:** After an extended retrans bout with **Sinclair**, **Mediacom** is focused again on growth and the SME market. "I've been pushing for more and more capital for this [segment]," said evp/CFO *Mark Stephan*. The MSO estimates 250K businesses within its footprint, and will roll out voice services in later this year to its existing HSD SME customer base. Stephan said a phone roll out to larger cos will commence sometime next year. -- Brushing aside some analysts' concerns about both competition and business maturity, **Cablevision** COO *Tom Rutledge* said CVC can still grow and that Verizon is having trouble stealing customers with its FiOS TV service. "It's very difficult to take away subscribers with a 'me too' product that's priced higher," said Rutledge, estimating that 92% of Verizon's ad dollars "are falling in places they can't service." As for CVC's high penetration rates in basic video (69%), HSD (46%) and voice (26%), Rutledge said "data is a 100% penetration possibility... and a good proxy for voice, as I see it." -- **AT&T's** planned improvements to its U-verse platform (**Cfax**, 1/26) seem to be having the desired effect, as *Ralph de la Vega*, group pres, regional wireline ops, said sales of the video service are up "dramatically" and now total 10K.

Vegas Bound: NCTA Touts Big Names, Policy Presence Still Light

NCTA says attendance and exhibitors are tracking in line with last year's **National Show** in Atlanta. The newly renamed **Cable Show** (May 7-9, Vegas) is expected to bring in at least 15K attendees—which, despite consolidation, is the same number the show had when it was last held in Vegas 20 years ago, said NCTA industry affairs svp *Barbara York*. Of the 324 exhibitors on board, 77 are new to the show. 87 sessions are planned for Vegas, including 4 general sessions featuring such heavyweights as **News Corp** pres/COO *Peter Chernin* and **Viacom** pres/CEO *Philippe Dauman* (sounds like a nice set-up for an Internet video discussion). This year, the show incorporates **CAB's** sales management conference and includes sessions developed with **CTAM**, **SCTE**, **ACA**, **CableLabs** and other industry groups. But NCTA chief *Kyle Mc-*



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Sparrow made it clear that the chief trade assn is not looking to swallow up other groups' events. "Our business bears little resemblance to the last time we were in Las Vegas 20 years ago. [These events are included] because the business is more intertwined," said **Disney Media Networks/ESPN's George Bodenheimer**, who is co-chairing the show with **Cox's Pat Esser**. This year's theme, "Competition Works. Consumers Win!," is also the point of the industry's new advertising campaign—though it doesn't sound like **FCC** chmn *Kevin Martin* will hear the message. So far, fellow Republican *Robert McDowell* is the only **FCC** commissioner confirmed to attend, though *Deborah Taylor Tate* also looks possible, York said. Other Washington types on the roster include **NTIA** dir *John Kneuer* and **FTC** commish *Jon Leibowitz*. It should be much easier to attract a Hill contingent in 2009 as the show will take place in DC. Next year, it returns to N'awlins. Other Vegas highlights include an address from **Anheuser Busch** pres/CEO *August Busch* who will later join a panel of programmers (including **Discovery's David Zaslav** and **Scripps' John Lansing**) to discuss emerging ad technologies. -- Of course, the real highlight has to be the show's closing party in which our own *Mike Grebb* will open acoustic-style for *KC and the Sunshine Band*. If you hang around after the show, you might persuade him to autograph your copy of **Cfax**.

Competition: **DirecTV** commenced local HDTV programming from broadcasters to subs in Greenville, SC; Jacksonville, FL; Spokane, WA; and Harrisburg, PA, bringing to 53 the number of US cities now receiving local HD content.

Mobile Movement: **MTVN** signed **Pepsi** and **Intel** as charter sponsors for mobile offerings. MTVN also expanded its partnership with **Sprint**, which will offer 14 different live streaming and VOD channels with MTVN content. Beginning this week, content from **Nickelodeon** and **The N** will appear within new **Amp'd TV** channels, and Amp'd Mobile and Nickelodeon will launch in 2Q a channel targeting the 18-25 set based on "SpongeBob SquarePants."

On the Hill: One benefit of completing the digital TV transition in Feb. 17, 2009, may be the end of Congressional hearings about it. **Time Warner Cable** CEO *Glenn Britt* was the latest CEO to experience the pleasure of testifying on DTV as he sat on a panel before the House telecom subcommittee on Tues. He reiterated that cable needs flexibility in converting digital signals to analog in order to minimize disruptions to basic customers without set-tops.

USA Upfront: The net's forthcoming programming slate includes a show based on *Gigi Levangie Grazer's* novel, "The Starter Wife" (May 31) chronicling a woman's rebirth after years of marriage to a Hollywood exec. POND's signed on as the 6-hour event's presenting sponsor. Original series "Burn Notice" (Jun 28) features a terminated spy seeking the reasons for his dismissal. Actor *Al Pacino* will be feted Jun 19 in "AFI Life Achievement Award: A Tribute to Al Pacino." *Danger* becomes *Cindy*, a Wal-Mart employee rendered fearless after surviving a bullet wound, in "American Girl."

Programming: **MASN** has launched a toll-free number and online zipcode finder to help **Orioles** and **Nationals** fans find the channel on their local cable and satellite systems. Fans can also use 1-877-4MY-MASN to find **MASN2**, which kicks in when the 2 teams are playing simultaneously. Finding a spot for the overflow channel has been a bit tricky. **Comcast** is using **C-SPAN2** to house MASN2 when both teams are playing. C-SPAN2's content will move from an analog spot to digital just during those times—requiring a digital box for analog homes. Hmmm... Politicos put pressure on the MSO to reach a deal to carry MASN on analog, and then a channel they often appear on gets booted from analog... Sweet irony? -- **VOOM HD Nets** added 225 new hours of original HD content to its intl offerings through **iD Distribution**.

Offer He Couldn't Refuse: As **Hallmark Channel** tries to negotiate more favorable affiliate contracts, it can now turn

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BUSINESS & FINANCE

to the Godfather for advice. Retired Time Warner Cable programming chief Fred Dressler has been elected to Crown's board. He hasn't been assigned to a committee yet.

We Were Con-Vinced: Our Seth Arenstein attended the news conference at Trump Tower Wed where Donald Trump slapped WWE chief Vince McMahon in the face, beginning a brawl that (oh so conveniently) continues Sun during Wrestlemania 23's Battle of the Billionaires; the loser supposedly will have his head shaved by the victor (7pm ET, PPV). "I can tell you McMahon... had me fooled for more than a few seconds. Trump's slap was real... But when McMahon went for Trump, and a bodyguard intervened, McMahon went headfirst into and over a table. Only when he rose, feigning a head injury, did I realize I'd been had. Still, not your garden variety press conference."

People: Jeff Hasler was promoted to svp, development, Discovery Channel and The Science Channel, and Elizabeth Hillman was promoted to svp, communications.

Business/Finance: Mediacom must feel pretty good about chmn/CEO Rocco Commisso's handling of the Sinclair situation. This month the compensation cmte awarded him a cash bonus of nearly \$893K for his services last year as well as options to purchase 264K shares of Class A common stock and 111K restricted, according to an SEC filing.

CableFAX Daily Stockwatch

| Company | 03/28 Close | 1-Day Ch | Company | 03/28 Close | 1-Day Ch |
|------------------------------|-------------|----------|-----------------------|-------------|----------|
| BROADCASTERS/DBS/MMDS | | | | | |
| BRITISH SKY: | 44.85 | 0.08 | AMPHENOL: | 65.43 | 0.10 |
| DIRECTV: | 22.61 | (0.1) | ARRIS GROUP: | 13.99 | 0.48 |
| DISNEY: | 34.23 | (0.43) | AVID TECH: | 34.56 | (0.1) |
| ECHOSTAR: | 42.77 | (0.4) | BLNDER TONGUE: | 1.95 | (0.08) |
| GE: | 35.55 | (0.24) | BROADCOM: | 31.27 | (0.79) |
| HEARST-ARGYLE: | 26.85 | 0.02 | C-COR: | 13.36 | (0.1) |
| ION MEDIA: | 1.30 | (0.01) | CISCO: | 25.70 | (0.23) |
| NEWS CORP: | 23.83 | (0.27) | COMMSCOPE: | 43.05 | (0.12) |
| TRIBUNE: | 31.13 | 0.03 | CONCURRENT: | 1.52 | 0.02 |
| MSOS | | | | | |
| CABLEVISION: | 30.16 | (0.31) | CONVERGYS: | 25.41 | (0.06) |
| CHARTER: | 2.79 | (0.03) | CSG SYSTEMS: | 25.28 | 0.05 |
| COMCAST: | 25.76 | (0.32) | GEMSTAR TVG: | 4.15 | (0.03) |
| COMCAST SPCL: | 25.39 | (0.33) | GOOGLE: | 461.88 | (1.74) |
| GCI: | 13.69 | (0.3) | HARMONIC: | 9.84 | 0.11 |
| KNOLOGY: | 14.75 | (0.07) | JDSU: | 15.33 | 0.05 |
| LIBERTY CAPITAL: | 108.78 | (0.33) | LEVEL 3: | 6.03 | (0.1) |
| LIBERTY GLOBAL: | 32.68 | (0.24) | MICROSOFT: | 27.64 | (0.08) |
| LIBERTY INTERACTIVE: | 23.90 | (0.17) | MOTOROLA: | 17.73 | (0.04) |
| MEDIACOM: | 7.85 | (0.12) | NDS: | 50.31 | 0.17 |
| NTL: | 28.22 | 0.00 | NORTEL: | 24.47 | (0.25) |
| ROGERS COMM: | 31.91 | (0.54) | OPENTV: | 2.39 | (0.09) |
| SHAW COMM: | 36.29 | (1.15) | PHILIPS: | 37.95 | (0.46) |
| TIME WARNER CABLE: | 37.35 | (0.09) | RENTRAK: | 15.75 | 0.16 |
| WASH POST: | 759.74 | (3.26) | SEACHANGE: | 8.10 | (0.14) |
| PROGRAMMING | | | | | |
| CBS: | 30.37 | (0.21) | SONY: | 51.22 | (1.02) |
| CROWN: | 5.26 | (0.07) | SPRINT NEXTEL: | 18.51 | (0.35) |
| DISCOVERY: | 18.31 | 0.01 | THOMAS & BETTS: | 48.49 | (0.25) |
| EW SCRIPPS: | 44.49 | (0.01) | TIVO: | 6.24 | (0.17) |
| GRUPO TELEVISIA: | 29.09 | (0.34) | TOLLGRADE: | 12.16 | (0.3) |
| INTERACTIVE CORP: | 37.73 | (0.91) | UNIVERSAL ELEC: | 28.48 | (0.39) |
| LODGENET: | 29.76 | (0.37) | VONAGE: | 3.26 | 0.00 |
| NEW FRONTIER: | 9.11 | 0.03 | VYYO: | 8.44 | 0.97 |
| OUTDOOR: | 10.04 | (0.35) | WEBB SYS: | 0.04 | 0.00 |
| PLAYBOY: | 10.26 | (0.02) | WORLDGATE: | 0.73 | 0.00 |
| TIME WARNER: | 19.91 | (0.2) | YAHOO: | 31.41 | (0.14) |
| UNIVISION: | 36.23 | 0.02 | TELCOS | | |
| VALUEVISION: | 11.99 | (0.02) | AT&T: | 38.95 | (0.49) |
| VIACOM: | 40.71 | (0.2) | QWEST: | 8.85 | (0.03) |
| WWE: | 15.91 | 0.09 | VERIZON: | 37.23 | (0.46) |
| TECHNOLOGY | | | | | |
| 3COM: | 3.92 | (0.03) | MARKET INDICES | | |
| ADC: | 17.21 | 0.03 | DOW: | 12300.36 | (96.93) |
| ADVANTAGE: | 3.47 | 0.04 | NASDAQ: | 2417.10 | (20.33) |
| ALCATEL LUCENT: | 11.81 | (0.12) | | | |
| AMDOCS: | 36.57 | 0.29 | | | |

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Think about that for a minute...

Copyright Redux

Believe me, I'm sorry to have to say this, but we're going to have to wade into the swamp of re-doing the copyright law again. From 1909 until 1976 that law was not substantially changed. But the advent of television, then cable television, photocopying and the like finally forced the hand of Congress. The 1976 Copyright Act took eleven years of gestation to finally be born. It was a hard and messy birth.

The arrival of the Internet forced a second major change 22 years later when the Digital Millennium Copyright Act was adopted in 1998. Now, just nine years has passed and it is painfully clear that copyright law has not been able to keep up with technology and the changing telecommunications marketplace. Put on your hip boots, we have to jump back in!



Steve Effros

It came as no surprise that Cablevision lost the first round of its copyright fight to provide "network DVR" service last week. That was predictable. What was not anticipated was how broadly this (admittedly lower court) decision would be drawn. The judge in the case stuck very close to prior legal precedent and didn't really acknowledge that there was little practical difference or impact on copyright holders if a DVR, with all DVR functionality controlled by the home viewer, resided on the top of the television set or was a piece of hardware at the cable headend.

From a common sense point of view, as an editorial in the *Los Angeles Times* pointed out Tuesday, there is no real difference between the "product" identified by the court as a DVR and the "DVR service" that Cablevision wanted to offer. The holders of copyrights were affected exactly the same way, the consumer saw and controlled exactly the same thing.

But, as the court noted, looking at the DMCA and the prior court precedents, a DVR "product" is protected in the home and allowable under the "fair use" doctrine, but a DVR "service" which does the exact same thing is not. Hence Cablevision's service offering was a violation of the current copyright laws.

OK, Cablevision could appeal and we could all debate how many angels can stand on the head of the copyright pin. But that makes no real sense. I suspect long before the court cases were done there would be a deal cut between the copyright holders and the cable folks, as that is really what is going on here... it is a negotiation over who gets what "cut." The same is happening with Viacom and Google over the YouTube "fair use" issue.

The real problem is that we are wasting a lot of time and effort on these cases while ignoring the underlying truth: technology has changed. The broad reading given in the Cablevision case could bleed over to lots of the new "services" that are going to be offered on the Internet: legal if done on your home computer, but illegal if done at the ISP's server? That's not a prescription for encouraging new technological developments. That's a clear barrier.

The courts can't effectively eliminate that barrier, they can only do end-runs around it, and in this case the Judge decided he wasn't going to play. Sort of like the Supreme Court in the old cable distant signal copyright cases. They acknowledged the problem, noted that the law had been written in 1909 and was out of date and then stuck to it, saying it was Congress' job to do the swamp draining, not theirs.

I think we just got that message loud and clear again.

Steve

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