

CableFAX Daily™

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What the Industry Reads First

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Briefly Speaking: TWC, NCTA Tell Court that FCC Operating in a Time Warp

When the **FCC** issued its 2011 programming carriage order, it missed the opportunity to address major marketplace changes involving the rules since they were enacted in the '92 Cable Act. That's what **NCTA** and **Time Warner Cable** told the US 2nd District Court of Appeals this week. The 2 have challenged the FCC order, released last Aug. Under it, a programmer filing a carriage complaint may also file a petition requesting a temporary standstill of price, terms and other conditions of the existing contract. Less controversial are the requirements set forth in the order to establish timelines for filings and decisions on carriage complaints. In offering up evidence for why the tightening of the rules was unnecessary—and not reflective of the current marketplace—TWC quoted the words of Democratic commish *Mignon Clyburn*, who voted in favor of the order. "As one FCC Commissioner recently noted, now that anyone can reach viewers directly without the need for MVPD carriage, this is the 'first time' there are 'no immediate and overwhelming barriers to entry' in the video programming marketplace." NCTA and TWC argued that given the significant changes in the video-programming distribution market, the FCC should have scaled back its program carriage rules. "The FCC's final rules, however, did just the opposite—expanding the agency's reach into MVPDs' carriage decisions. It did so most brazenly by asserting broad new authority to force MVPDs to abide by expired carriage contracts with networks that bring program-carriage complaints, based only on the agency's tentative assessment of the complaint's allegations," NCTA said. Time Warner Cable noted that at the same time the FCC was expanding the program carriage rules, it was repealing the broadcast "fairness doctrine," which required broadcasters to provide contrasting points of view. The FCC recognized that the explosive growth in electronic media outlets undercut any justification for forcing broadcasters to disregard their own editorial preferences, while at the same time expanding program carriage rules that "seek to displace MVPDs' editorial judgments," the MSO said. TWC also made the case that the percent of programming nets vertically integrated with cable ops had shrunk from 57.4% in '92 to 14.4% according to most recent FCC data (that figure accounts for the **Comcast-NBCU** transaction). Both continued to hammer home that the FCC's order was based on a 4-year-old NPRM that made no mention of the standstill requirement, thus preventing the Commission from getting comments on it. "The FCC not only ignored the limits that Congress placed on its authority, but stacked the deck to support its preferred approach—first by precluding meaningful public input, and then by distorting the rule's costs and benefits to serve the agency's ends," NCTA concluded. "The result is a rule that suffers from severe, indeed fatal, statutory and constitutional infirmities."

Inside the Beltway: **Discovery Education** CEO *Bill Goodwyn* (also pres of global distribution for Discovery) participated in a meeting Thurs with **FCC** chmn *Julius Genachowski* and Sec of Ed *Arne Duncan* on concrete steps to transition K-12 schools to digital textbooks in 5 years. Other participants included **News Corp** education div CEO *Joel Klein* and **Apple** vp, educ *John Couch*. The FCC said meeting participants discussed the idea of working together to develop a low-cost and high quality bundled solutions for interactive digital textbooks consisting of device, content, connectivity, and technical

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support. Genachowski and Duncan challenged the group to develop near market-ready, scalable products or bundles, with any groups of companies able to present their response to the challenge at the White House this fall.

Earnings: **SeaChange** reported rev of \$51.7mln for 4Q, down from \$57.9mln a year ago. The company posted a GAAP loss from continuing operations for the 4Q of fiscal '12 of approximately \$3.5mln compared with GAAP income from continuing operations of \$11.2mln for the 4Q of fiscal 2011. 4Q included restructuring charges of \$3.1mln, primarily related to headcount reductions. "Our focus in fiscal 2013 is on the execution of our strategy to transform the Company into a pure-play software provider, lowering our overall cost structure, delivering industry leading, next generation solutions and achieving superior financial results," said CEO *Raghu Rau*.

Online: **HBO** launches an interactive viewing experience on the iPad for HBO Go on Sun. Previously available only online, the app lets viewers engage with original features created exclusively for the service, by watching full-length episodes of the series alongside an "alert feed" showing never-before-seen bonus content. The launch is timed to the Season 2 premiere of "Game of Thrones" (9pm).

Upfronts: **Cartoon Network** wants to "embrace TV Everywhere," said pres/COO *Stuart Snyder* at the net's NY upfront Wed. He also alluded to "big plans" for phones and tablets for later this year. Chief content officer *Rob Sorcher* discussed animation strategy: "we took a gamble" with new animators with Millennial sensibilities, and it's paid off. "We're also finding content on the Internet, where our audience is," said Sorcher. Take "Annoying Orange," a Web series with a billion cumulative **YouTube** hits featuring a fruit with a propensity for bad puns. It debuts on Cartoon this summer. Other new series include a *Nick Cannon* live action sketch comedy series, "DreamWorks Dragons: The Series" (based on the film "How to Train Your Dragon"), "Ben 10: Omniverse," "Beware the Batman" and "Total Drama: Revenge of the Island." In terms of specials, the "Hall of Game" award show is back, and 17 series are returning. Meanwhile, 7 voices behind Cartoon's most popular characters provided a peek of what actually goes on in the studio, while 'toons were projected on a massive screen so audience members could follow along. -- **Food** and **Cooking** have 35 returning shows and 22 new series in the works for the '12. Food's debuting "Cupcake Champions," which pits "Cupcake Wars" winners against each other, May 13. Other new prime series on Food include "Mystery Diners," under operatives go into restaurants and bars with hidden cameras to find out what's going on when the boss isn't around (May 25) and "Invention Hunters," which looks at home inventors' kitchen gadgets. New series at Cooking include "The Culinary Adventures of Baron Ambrosia," culinary adventures in cities-less traveled (June 1) and "My Grandmother's Ravioli," Mo Rocca visits grandparents to learn treasured recipes (fall premiere).

Programming: Breakout out the scissors and glitter. **TLC** is rolling out "Craft Wars," pitting 3 everyday crafters in a craft showdown (June 26 premiere). *Tori Spelling*, who just released her own line of craft products, will host and exec produce the 10-ep series. -- **In Demand's** MLB Extra Innings package will be available for a free preview Apr 5-15. The early bird offer for the out-of-market baseball game telecasts is \$179, a \$20 savings over ordering after Apr 15. In Demand reaches **Comcast, Time Warner Cable, Cox, Bright House, Cablevision, Charter, Midcontinent, Verizon FiOS, RCN** and many independent affiliates across the nation. -- **TV Guide Net** is prepping a stand-up series hosted by *Kate Flannery* ("The Office"). "StandUp in Stilettos" is slated to debut June 16, 10pm. Also new to the net this summer: Aussie talker "Rove LA" (July 21, 10pm). -- **Music Choice** puts the US debut of retrospective "A Pink Floyd Miscellany: 1967-2005" on VOD, Apr 2-29.

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OTT Musings: Stakeholders Debate Evolving Content Delivery at CES

With the Comcast/Disney distribution deal a harbinger for TV Everywhere and Fox's move last summer to put select content behind a pay wall, panelists mull the ins and outs of over-the-top delivery at an OTT panel at CES. "The tablet, the device, is going to control the TV experience at U-verse," said Jeff Heiber, AT&T VP, product and strategy, noting the company's drive into tablet apps and model of providing APIs for developers to send content from device to television. But discernment is critical, panelists agreed. While AT&T has an approval process in place, YouTube abandoned its API-based partnership model two years ago "because we ended up with different apps on different TV, and performance differed," said Francisco Valera, dir/global head of platform and games partnerships. Touting YouTube's deals with Samsung, LG and its new Xbox partnership, "If we can't control the app, and update features quickly, it's a lost cause," he said. YouTube's recent-day model of investment in original content will stretch the company's presence in specific categories such as "niche cooking and unique travel" channels. "We don't see ourselves becoming a large studio, but we're more than dogs on skateboards," Valera quipped. "We want to bring in proven providers of broadcast quality content that's not sustainable in the cable universe." Valera said YouTube is working on its fourth UI, and moving toward the HTML5 standard. Noting that unlike other video distributors YouTube always owns its TV and mobile content rights, "Can we bring our content to an AT&T, Cox or Comcast? We can, and that's where we are excited," he said. Initial deals with distributors are rolling out in Europe and Asia, he said. At Cox, focus remains on the UI. "It's important to get the user interface right, especially as more content is added in," said Lisa Pickelsimer, executive director, video product development. Integrated search, recommendations and social media will become more key, Pickelsimer said, noting the bigger role of metadata and the need

BUSINESS & FINANCE

On the Circuit: Though seasoned cable execs received recognition for promoting diversity, every speaker at the 19th **T. Howard Foundation** Diversity Awards Dinner Wed eve touched on the importance of the internship program. Some were interns themselves, like *Kayla Arias*, now employed at **A&E** as a web producer. Introducing **NBCU's Bridget Baker**, the recipient of the Champion Award, was former co-worker and good friend *Henry Ahn*. The **Scripps Networks Interactive** exec teased her for talking up her Alaskan upbringing: "We've all heard about her growing up in Alaska. Yes, we know, Alaska is part of the United States." Guest presenter *Hoda Kotb* ("Today" and "Dateline NBC") noted Baker "shattered a ton of glass ceilings," brought the T. Howard Internship Program to NBCU and... loves *Adele*. So the audience, too, could partake, Kotb held up a pair of headphones to the mic. "It's safe to say you are my girl crush," said Baker to Kotb. "We should do a show together." **Univision's Cesar Conde** accepted the Executive Leadership Award, remarking that Univision "understands the responsibility of being the voice of the Latinos in the United States, and we do not take that lightly." Lastly, ESPN's *Sean Bratches* introduced exec chairman *George Bodenheimer*, calling him a "culture carrier" more focused in a diverse workforce than anyone he knows. Bodenheimer accepted the net's Corporate Leadership Award. ESPN has welcomed more than 30 T. Howard interns.

CableFAX Daily Stockwatch

Company	03/29 Close	1-Day Ch	Company	03/29 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	49.49	0.67	CLEARWIRE:	2.23	(0.07)
DISH:	32.56	0.09	CONVERGYS:	13.43	0.06
DISNEY:	43.01	(0.5)	CSG SYSTEMS:	15.10	(0.37)
GE:	19.95	(0.06)	ECHOSTAR:	28.16	(0.46)
NEWS CORP:	19.67	(0.28)	GOOGLE:	648.41	(7.35)
MSOS					
CABLEVISION:	14.80	0.02	HARMONIC:	5.54	(0.02)
CHARTER:	63.11	(0.14)	INTEL:	28.16	0.36
COMCAST:	29.83	(0.09)	JDSU:	14.57	(0.02)
COMCAST SPCL:	29.46	(0.13)	LEVEL 3:	26.44	0.18
GCI:	8.84	(0.13)	MICROSOFT:	32.12	(0.07)
KNOLLOGY:	18.20	(0.18)	MOTOROLA MOBILITY:	39.25	(0.05)
LIBERTY GLOBAL:	50.13	(0.14)	RENTRAK:	22.64	0.26
LIBERTY INT:	19.26	0.09	SEACHANGE:	7.89	(0.28)
SHAW COMM:	21.15	0.03	SONY:	20.93	(0.2)
TIME WARNER CABLE:	80.34	(0.18)	SPRINT NEXTEL:	2.98	0.15
VIRGIN MEDIA:	24.64	0.30	THOMAS & BETTS:	71.74	(0.01)
WASH POST:	369.73	(13.22)	TIVO:	11.89	0.19
PROGRAMMING					
AMC NETWORKS:	44.23	(0.2)	UNIVERSAL ELEC:	20.07	(0.03)
CBS:	32.83	0.60	VONAGE:	2.16	(0.02)
CROWN:	1.58	0.01	YAHOO:	15.30	(0.02)
DISCOVERY:	49.41	0.04	TELCOS		
GRUPO TELEVISA:	20.94	(0.36)	AT&T:	31.21	(0.15)
HSN:	37.81	(0.75)	VERIZON:	38.07	(0.19)
INTERACTIVE CORP:	48.89	(0.09)	MARKET INDICES		
LIONSGATE:	14.20	0.61	DOW:	13145.82	19.61
LODGENET:	3.48	(0.09)	NASDAQ:	3095.36	(9.6)
NEW FRONTIER:	1.51	UNCH	S&P 500:	1403.28	(2.26)
OUTDOOR:	7.46	(0.01)			
SCRIPPS INT:	48.63	(0.21)			
TIME WARNER:	37.14	0.85			
VALUEVISION:	2.05	0.03			
VIACOM:	52.52	0.20			
WWE:	8.84	(0.12)			
TECHNOLOGY					
ADVANTAGE:	2.35	0.04			
ALCATEL LUCENT:	2.31	(0.05)			
AMDOCS:	31.66	0.34			
AMPHENOL:	59.05	0.44			
AOL:	19.29	UNCH			
APPLE:	609.86	(7.76)			
ARRIS GROUP:	11.12	0.10			
AVID TECH:	10.98	(0.17)			
BLNDER TONGUE:	1.34	(0.01)			
BROADCOM:	38.56	0.28			
CISCO:	21.03	(0.05)			

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PROGRAMMER'S PAGE

Weights and Measures

Show up at any media industry event these days, and you're bound to hear something about the need for better audience measurement and targeting. Advertisers and agencies—spoiled by more than a decade of cookie-based bliss and precise metrics online (thanks, **Google**)—increasingly harp about it. The question, of course, is who really benefits and why. The politically correct answer is that better targeting and measurement for TV ads help everyone because, after all, more accuracy can only improve the market's overall efficiency. There's certainly something to that. But drill down, and things get a bit more complicated. At **4A's** Transformation L.A. conference this week, **Hulu** CEO *Jason Kilar* talked about letting consumers skip ads they don't find relevant (so advertisers can "learn" and better target them in the future). That's great, but how does linear TV compete? Meanwhile, some agency execs seemed keen to demand more compensation from their clients when they can better prove the effectiveness of TV ads through various metrics. That's good for them, but does it mean the existing pool of money will grow—or just that less will go to cable nets because agencies and buyers are getting a bigger cut of the same pool? When extremely precise metrics and Web-like personalization are available in TV—as they are now for digital—cable networks will be forced to prove without a doubt that their audiences are actually watching those ads. And once interactive advertising takes off, agencies will be able to track whether viewers are buying stuff based on the ad messages they view. That's powerful data for brands and agencies. And for networks with audiences that truly respond to the messaging, advertisers may be willing to pay even more for those results. But for other networks that underperform vs their perceived effectiveness under the current "faith-based" system, this could be the beginning of a tough slog in which ad revenue sputters and declines. Everyone wants better measurement and targeting. But it will come with a day of reckoning for some networks that have found a certain comfort in the status quo. *MG*

Reviews: In this late winter stretch we may well have reached cable nirvana. Last week it was the return from hibernation of "Mad Men" (Sun, 10p, **AMC**). This week it's the season II debut of a series with many mad men and several mad women, **HBO's** fantasy "Game of Thrones" (Sun, 9p), whose early sophomore eps seem even more electrifying than those of its terrific rookie season. Unlike the accessible Mad Men, to those who've not devoured *George R.R. Martin's* epic novels, even Thrones' season I was a challenge to follow. But Thrones is like opera—lacking knowledge of plot intricacies won't prevent viewers from deriving tremendous enjoyment. More nirvana—next week, **Showtime** returns "The Borgias" and "Nurse Jackie." -- *Steven Seagal* created, exec produced and stars in "True Justice" (Fri, 9p, **Reelz**), a decent police procedural. While Seagal's wooden acting seems to have infected his cast, he still can singlehandedly beat up bad guys. -- For a 1st scripted original, sit-com "Holliston" (Tues, 10:30p, **FEARnet**) isn't bad, especially when it pokes fun at the horror film genre, as it does in ep 2.

Basic Cable Rankings (12/26/12-3/25/12)			
Mon-Sun Prime			
1	USA	2.3	2281
2	ESPN	1.8	1739
3	DSNY	1.7	1717
4	HIST	1.6	1625
4	TBSC	1.6	1587
6	FOXN	1.5	1480
6	TNT	1.5	1456
8	A&E	1.3	1256
9	FX	1	1021
9	FAM	1	983
9	DISC	1	982
9	FOOD	1	972
9	LIFE	1	970
9	HGTV	1	969
9	SYFY	1	965
9	DSE	1	74
17	ADSM	0.9	938
17	MTV	0.9	926
17	AMC	0.9	877
17	TRU	0.9	852
17	NKJR	0.9	627
22	TLC	0.8	816
22	BRAV	0.8	795
24	TVLD	0.7	701
24	NAN	0.7	699
24	MSNB	0.7	679
24	CMDY	0.7	675
24	BET	0.7	618
24	ID	0.7	576
30	SPK	0.6	641
30	CNN	0.6	604
30	HALL	0.6	525
30	LMN	0.6	513
34	APL	0.5	522
34	VH1	0.5	521
34	EN	0.5	515
34	NGC	0.5	401
38	OXYG	0.4	338
38	WE	0.4	288
38	OWN	0.4	276
38	NKTN	0.4	231
42	ESP2	0.3	346
42	HLN	0.3	343
42	TRAV	0.3	331
42	CMT	0.3	283
42	DXD	0.3	274

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