

# CableFAX Daily™

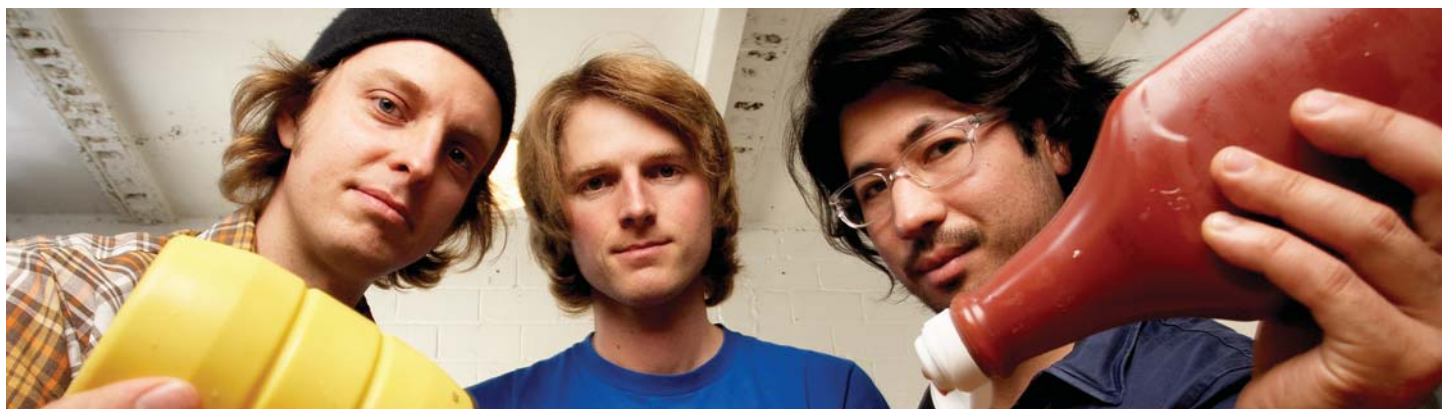
Wednesday — April 7, 2010

What the Industry Reads First

Volume 21 / No. 066

## Open Internet: All Eyes on FCC After Comcast Wins Court Case

Comcast's federal appeals court victory could mean the FCC will look for other ways to regulate broadband. Even before the ruling came speculation that the Commission might reclassify broadband services under the more heavily regulated Title II category. Other possibilities include Congress stepping in. "Although today's decision is an immediate victory for broadband providers, they may have won the battle only to face a larger war," **Stifel Nicolaus** said in a research note. The US Appeals Court for the DC Circuit unanimously ruled that the FCC didn't have the statutorily mandated authority to go after Comcast for its bandwidth management practices in '08 and vacated the order. The decision could effectively free broadband providers from FCC broadband regulation—which is key to its proposed National Broadband Plan and its pending open Internet proceeding. "Our primary goal was always to clear our name and reputation," said Comcast, which changed its network management practices before the FCC order came down. "Comcast remains committed to the FCC's existing open Internet principles, and we will continue to work constructively with this FCC as it determines how best to increase broadband adoption and preserve an open and vibrant Internet." Adding to the Title II worry is a statement from an FCC spokesperson, in which she said the court did not "close the door to other methods for achieving this important end." FCC Democratic commish *Michael Copps* is anxious for the FCC to do something soon, saying it should "straighten this broadband classification mess out before the first day of summer." Consumer groups such as **Public Knowledge** urged an immediate proceeding to bring Internet access back under Title II regs, saying the FCC's ruling leaves the National Broadband Plan in "legal limbo." Net neutrality opponent and **NetCompetition.org** chmn *Scott Cleland* urged against such action (as did FCC Republican commishes *Robert McDowell* and *Meredith Baker*). "FCC Title II reclassification of broadband would be the most convoluted, unworkable, *Rube Goldberg*-ian, action imaginable for the FCC to take when the simple, right, and productive thing to do is just ask Congress for the authority the FCC believes it needs," Cleland said. We should hear a lot from Congress next Wed when the **Sen Commerce** cmte holds a hearing on the Broadband Plan. Lawmakers are already weighing in. **Sen Commerce Communications** subcmte chmn *John Kerry* (D-MA) didn't advocate reclassifying broadband as a result of the decision but suggested the FCC has the legal authority to do so. "In cases involving FCC classification of services, the Supreme Court has always deferred to the agency. It



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is likely to continue doing so if the agency reversed and provided a strong rationale for updating the Bush era classification of broadband service," he said. A new a new legal framework for broadband may be needed, he said, "especially if reclassifying broadband as a telecommunications service proves too difficult to administer." Republicans, such as **House Commerce** ranking member *Joe Barton* (TX), rejected Title II reclassification. Meanwhile, broadband providers assured consumers that the ruling would not impact their Internet experience. "In this case, the FCC simply failed to link its actions to its statutory responsibilities. The FCC's authority supplements the various other consumer protection and competition laws that apply to all members of the Internet ecosystem," said **Verizon** evp, gen counsel *Randal Milch*. **NCTA's** *Kyle McSarrow* also pledged the decision would not change cable's commitment to providing the best possible broadband experience. "We continue to embrace a free and open Internet as the right policy and will continue to work with the Commission and other policymakers and stakeholders to find a sound way of preserving that goal," he said.

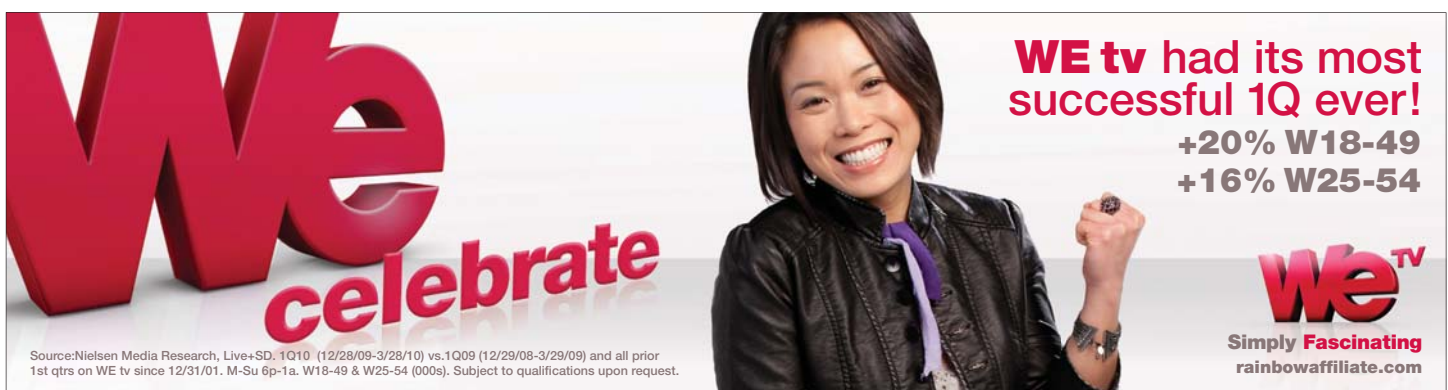
**Net Neutrality:** **Windstream** said late Mon that it restored original functionality to search queries after hearing from affected customers. **Free Press** called Mon for the **FCC** to probe whether the DSL provider was intercepting valid search queries entered via the **Firefox** toolbar and redirecting users to a search engine on a Windstream-owned page (**Cfax**, 4/6). Windstream said a network change on Fri affected certain customer Web browser search queries, producing "search results inconsistent with Windstream's prior practices," and that customers were given an option to permanently opt-out.

**Competition:** **Verizon** is now testing for its FiOS network IPv6, an Internet protocol designed to accommodate Web growth and expand and facilitate the development of services for the platform. **Comcast** announced plans in Jan to launch a series of public IPv6 trials this month. -- **AT&T's** infrastructure capex will expand by \$1bln this year as the telco upgrades its network, products and services aimed at small US businesses and global firms. Included stateside are planned investments in LTE- and WiFi-based mobile apps and increased broadband speeds. -- **Gray TV** reported a 5% increase in 4Q local ad rev to \$47.1mln, a 346% surge in retrans rev to \$3.7mln and a 1% dip in national ad rev to \$15.9mln.

**Online:** **CBS Sports' March Madness on Demand** reported that 8.3mln uniques consumed 11.7mln hours of live streaming video and audio during the entire tourney, marking 36% YOY consumption growth. 575K uniques (+70%) watched Mon night's final game online while calling up 368K content hours (+72%).

**Intl:** **Lionsgate** partnered with **Saban Capital Group** to manage **Tiger Gate**, a pay-TV channel operator and TV content distributor across Asia that was launched by Lionsgate and 2 partners in '08. -- **ESPN** picked up the exclusive mobile rights to every **Barclays Premier League** soccer match over the next 3 seasons.

**Ratings:** For some they're manic, for others melancholy, but for cable Mondays have become marvelous. Of last week's top 21 prime shows, 9 aired on Mon night, 4 more than the next closest day (Wed). A similar trend was seen in Mar, when 10 of the month's top 22 shows aired on Mon (Sun 6), and in 1Q, when 5 Mon features cracked the top 22 to tie with Thurs. As early week stalwarts such as **WWE** on **USA** and **History's** "Pawn Stars" were responsible for much of the night's success across periods, last week's logjam in 5th among prime nets resulted mainly from Mon shows. **TNT**, **History**, **TBS** and **ESPN** all notched a 1.2 prime HH avg, with ESPN the only of the 4 nets to scored its top-rated program on a night other than Mon (Sun). Then there's **USA** (2.4/2.37mln), which swept the telecast top 3 with an hr of **WWE**, of course, but also with 2 eps of "NCIS," 1 of which aired prior to wrestling. Among nets, **Disney Channel** (1.8/2.37mln) took



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# BUSINESS & FINANCE

2nd, Fox News (1.6/1.53mln) 3rd and Nick at Nite (1.3/1.34mln) 4th.

**Upfronts:** Oxygen unveiled a big boost in programming Tues, targeted to the young, upscale female audience that helped the net achieve its highest-ever ratings last year. New series pick ups include: "Jersey Couture," which follows a family running a formal NJ-based boutique (June 1), and docu-series "House of Glam," which follows an image agency for stars including *P Diddy* and *Jamie Foxx*. Pilot orders currently in production include: "Tori and Dean: Weddings," in which the network's marquee celeb-reality couple helps others plan weddings, and "Who Wears It Best," a personal style competition.

**Business/Finance:** MTVN and RealNetworks completed the planned spin-off of digital music service **Rhapsody** into a standalone entity, with MTVN earning an approx 48% stake.

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## CableFAX Daily Stockwatch

Company	04/06 Close	1-Day Ch	Company	04/06 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
BRITISH SKY:	37.86	0.40	APPLE:	239.54	1.05
DIRECTV:	34.74	0.05	ARRIS GROUP:	12.37	0.05
DISH:	22.01	0.75	AVID TECH:	15.20	0.21
DISNEY:	35.47	0.25	BIGBAND:	3.47	(0.02)
GE:	18.60	0.07	BLNDER TONGUE:	1.09	0.00
NEWS CORP:	17.34	(0.07)	BROADCOM:	34.40	(0.23)
<b>MSOS</b>					
CABLEVISION:	25.28	0.23	CISCO:	26.22	0.05
COMCAST:	18.76	(0.06)	CLEARWIRE:	7.09	(0.11)
COMCAST SPCL:	17.94	0.00	COMMSCOPE:	30.90	1.23
GCI:	5.83	(0.12)	CONCURRENT:	5.85	0.20
KNOWLOGY:	13.73	0.02	CONVERGYS:	12.70	0.13
LIBERTY CAPITAL:	37.73	0.27	CSG SYSTEMS:	21.18	(0.02)
LIBERTY GLOBAL:	29.36	(0.17)	ECHOSTAR:	20.69	0.28
LIBERTY INT:	16.08	0.07	GOOGLE:	568.22	(2.79)
MEDIACOM:	5.91	(0.09)	HARMONIC:	6.43	0.04
RCN:	15.13	(0.06)	INTEL:	22.40	(0.19)
SHAW COMM:	19.92	(0.05)	JDSU:	13.32	0.31
TIME WARNER CABLE:	52.47	(1.06)	LEVEL 3:	1.65	0.01
VIRGIN MEDIA:	17.82	(0.06)	MICROSOFT:	29.32	0.05
WASH POST:	484.84	1.84	MOTOROLA:	7.28	0.12
<b>PROGRAMMING</b>					
CBS:	14.59	(0.05)	PHILIPS:	32.80	(0.11)
CROWN:	1.92	(0.04)	RENTRAK:	21.67	(0.06)
DISCOVERY:	34.62	0.51	SEACHANGE:	8.03	0.52
GRUPO TELEVISA:	21.50	(0.16)	SONY:	37.42	(1.15)
HSN:	30.95	0.40	SPRINT NEXTEL:	3.88	(0.03)
INTERACTIVE CORP:	22.90	0.23	THOMAS & BETTS:	40.11	(0.43)
LIBERTY:	38.28	(0.16)	TIVO:	17.54	0.68
LIBERTY STARZ:	56.09	0.07	TOLLGRADE:	6.59	0.34
LIONSGATE:	6.23	0.01	UNIVERSAL ELEC:	23.30	0.50
LODGENET:	7.21	0.06	VONAGE:	1.48	(0.03)
NEW FRONTIER:	2.04	0.05	YAHOO:	16.92	0.41
RHI:	0.18	0.00	<b>TELCOS</b>		
SCRIPPS INT:	44.57	0.00	AT&T:	26.31	0.00
TIME WARNER:	31.99	0.09	QWEST:	5.25	0.00
VALUEVISION:	3.60	0.05	VERIZON:	31.20	(0.26)
VIACOM:	37.84	0.12	<b>MARKET INDICES</b>		
WWE:	17.25	(0.18)	DOW:	10969.99	(3.56)
<b>TECHNOLOGY</b>					
3COM:	7.74	(0.01)	NASDAQ:	2436.81	7.28
ADC:	7.62	0.13			
ADDVANTAGE:	2.25	(0.01)			
ALCATEL LUCENT:	3.15	(0.05)			
AMDOCS:	30.60	0.08			
AMPHENOL:	42.97	0.00			
AOL:	26.39	0.25			

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