

# CableFAX Daily™

Tuesday — April 12, 2011

What the Industry Reads First

Volume 22 / No. 069

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## David and Goliath?: FilmOn's Alki David Confident About Content Deals

In Nov, a federal judge issued a temporary restraining order against **FilmOn.com**, preventing it from streaming television stations or networks that haven't given the site permission such as primary foes **CBS**, **NBC**, **Fox** and **ABC**. And a month later the company slapped a libel lawsuit on CBS (**Cfax**, 12/23) that remains live. Yet founder/chmn **Alki David** said FilmOn and the big 4, who are "starting to embrace the inevitability" of IP-based content services, launched distribution talks last week, and that negotiations are also ongoing with numerous cable nets including **NFL Net**. "Deals are at different stages," said David of cable. A wave of inquiries went out across the TV landscape Mon, but only Fox responded definitively, a rep saying he had no knowledge of negotiations with FilmOn. **Turner** said it doesn't disclose business information. Said David: "We have no problem paying for programming. We want to be a value-added platform." The site added 22 cable nets last week including **NASA TV**, **The Pentagon Channel** and **Jewelry TV**, and also features live content from **Universal Sports**, **ION TV** and **BBC News**. David said FilmOn's subscriber count for plans starting at \$14.95/month jumped to 7K from 4K in the last month. But David also said the company offers TV Everywhere-type services for programmers under their own brands and is bent on launching its own cable channels. "The opportunity for both networks and content partners is a massively increased system of distribution," he said. FilmOn brand **Battlecam.com**, which features UG video of all types, will kick off the company's foray into multichannel programming with a 4-hr Mon night feature of Battlecam.com Live on **DirectTV** (albeit paid programming), he said, adding that channels in the women's lifestyle and music genres will follow. Still, David admits FilmOn remains known as an IPTV rabblouser—unfairly, he said. And while others may disagree, he argued "there's absolutely zero difference with what we do or what Verizon [FiOS TV] does," technologically speaking. He also predicted that iPad-related spats between **Viacom** and **Time Warner Cable** and **Cablevision** will come out in the MSOs' favor, supporting the idea that FilmOn is a "bonafide" service. "Our relationships with content providers are very different now than what they were a month ago," said David. "Really good content providers are very receptive to us."

**Deals:** Level 3 plans to buy **Global Crossing** in a \$2bln tax-free, stock-for-stock transaction that would create a global services platform anchored by fiber optic networks on 3 continents that are connected by undersea facilities. Level 3 said the company will result in pro forma combined 2010 revenue of \$6.26bln. **Stifel Nicolaus** said the deal may mean that Level 3 will not oppose the **AT&T** and **T-Mobile** deal. The transaction is expected to close before year-end, pending regulatory and shareholder approval. -- **NCTC** signed a multi-year deal with **Comcast Media Center's** HITS. NCTC members are eligible for competitive transport fees on classic HITS signals as well as HITS Quantum SD and HD services.

**In the States:** **Time Warner Cable** Business Class launched Business Class Online Backup, allowing businesses to automatically back up computer and server files to a secure, remote data center. -- **Time Warner Inc** could move its HQ to Manhattan's far West Side in move that would save money, reports the **WSJ**, citing sources. Talks are only in the



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preliminary stages. Time Warner and **Time Warner Cable** are both HQ'd at Columbus Circle. -- **DirecTV** will launch **HBO Go** and **MAX Go** Tues. The services are free to DirecTV subs who subscribe to the premium channels. HBO Go includes instant access to more than 1400 titles online, including the upcoming series "Game of Thrones" (Apr 17 premiere).

**On the Hill:** Sens *John Kerry* (D-MA) and *John McCain* (R-AZ) will introduce the Commercial Privacy Bill of Rights Tues. The legislation establishes a framework to protect personal info of Americans online and offline. Meanwhile, the 4A's announced that **GroupM** COO *John Montgomery* has been named chmn of its privacy committee, which was established earlier this month to address the controversial issue of Internet privacy.

**At the Portals:** The **FCC's** Consumer and Governmental Affairs Bureau wants comments from the public on their speed needs when it comes to broadband. Comments are due May 26; replies June 16. CGB Bureau chief *Joel Gurin* noted that an FCC survey last year found 80% of people with broadband don't know what speed they are getting with the service. "Most people don't understand megabits-per-second in the way they understand miles-per-gallon," he said.

**Carriage:** **Time Warner Cable** will add **NASA TV** to its Digital Choice lineup in Southwest OH Tues. -- **FIOS TV** launched **Fox Soccer HD** in FL, NJ and Philadelphia Mon, and will add the net in CA, MD, VA, D.C., TX and 4 additional markets this week. All FIOS markets are slated to receive the net by the end of Apr.

**Spectrum Wars:** We wonder how many **NAB** Show attendees are following LazySpectrum on **Twitter**. "*James Cameron* says 'broadcast is the future of 3D.' Yeah, like I can handle a 3D transition when broadcasters haven't embraced HD," read one of many Tweets poking fun at broadcasters for not making the most of spectrum. It's not clear who is behind the account. **CTIA**, which seems like an obvious candidate, said it's not behind the Tweets nor does it know who is. Meanwhile, **NAB** and **CEA** traded barbs over spectrum Mon. CEA (another potential LazySpectrum candidate) released a study saying that 65% of Americans believe that underutilized spectrum should be auctioned off to raise money to lower the federal deficit. The poll from **Zogby/463** found that 4 in 10 Americans said over-the-air broadcast is the information medium they could most likely live without. **NAB** evp, comm. *Dennis Wharton* called the study part of CEA's continued "misinformation campaign." "CEA apparently is not aware that the number of broadcast TV viewers is growing, not shrinking, as evidenced by the surge in pay TV cord-cutters," Wharton said. "Moreover, every survey but for those funded by CEA finds that most Americans continue to rely on broadcasting as their primary source for news."

**Technology:** At **NAB** this week, **Verizon's** introducing new "content-to-consumer" delivery capabilities through a solution that automates previously manual workflow processes associated with formatting, managing and delivering digital media to virtually any device or platform on a large scale. -- **Akamai** unveiled a prototype of Akamai Anywhere TV, a cloud-powered platform based on industry standards that enables programmers and ops launch next generation digital business strategies such as TV Everywhere. -- **Ooyala** bowed a suite of integrated services that deliver professional video across mobile devices, connected TVs and browsers.

**Programming:** **USA's** robust summer slate will feature 9 original series to air on Mon, Tues, Wed, Thurs and Sun nights, beginning June 7 with the returns of "White Collar" and "Covert Affairs." New shows include "Suits" (June 23), in which a top corporate lawyer hires a brilliant yet unmotivated college dropout, and "Necessary Roughness" (June 27), focused on a Long Island divorcee who becomes a therapist for a pro football team to make ends meet.

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### Independent Operator Awards\*

Independent Operator of the Year  
Independent Marketer of the Year  
Independent System Executive of the Year  
Independent Community Service Award  
Independent Customer Care Award  
Independent Technology Award  
Independent Project Launch of the Year  
Independent Financial Exec of the Year  
Independent Lifetime Achievement Award

### MSO Awards Categories

MSO of the Year  
Sales Team of the Year  
Community Service Award MSO-wide  
Community Service Award System-level  
Technology Award  
Financial Exec of the Year  
Regional Executive of the Year  
Customer Care  
Project Launch of the Year  
Leadership Award  
Lifetime Achievement Award

\* In Conjunction with NCTC and ACA

Fill out Form or Enter Online at: [www.cablefax.com/awards](http://www.cablefax.com/awards)

Category of Award: \_\_\_\_\_

Name of Award Candidate: \_\_\_\_\_

Title of Person or Campaign: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Name of Nominator: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

In 400 words or fewer, why does this person/campaign deserve to win an award? (Please be specific and include as much detail as possible.)

Please support the candidacy with any additional material (testimonials, press clippings etc) that you see fit.

## CableFAX Top Ops AWARDS

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Rockville MD 20850

Our Top Ops list will be honored in CableFAX: The Magazine's July issue and during an awards luncheon in September coinciding with CableFAX's annual Program Awards.



Enter Online at: [www.cablefax.com/awards](http://www.cablefax.com/awards)

# BUSINESS & FINANCE

**People:** BBC America has named Valerie Bruce, svp, business affairs, putting her in charge of all programming-related business deals. -- **Out-door Channel** promoted Denise Conroy-Galley to evp, marketing and research. -- MTV News tapped Jason Kaufman as vp, daily news.

**On The Circuit:** It soon will be tough for History viewers to forget it's the 150th anniversary of the Civil War. At the network's history.com site visitors will find a dedicated site called Civil War 150, which identifies the 150 persons, places, technology and events that defined America's greatest conflict, according to 16 Civil War experts and historians. In addition, History yesterday formally unveiled its Give 150 campaign, an educational and fundraising effort to inform students and adults about the War and raise funds to preserve historic sites and battlefields. That and much more are part of History's extensive 4-year campaign commemorating the war.

**Business/Finance:** Miller Tabak's David Joyce downgraded Charter to 'neutral' from 'buy' on valuation following a strong run of the MSO's shares, which have gained more than 50% since early Dec. Joyce's short-term price target remains \$57 and his new long-term target is \$63. Joyce expects the MSO to shed 23K basic subs in 1Q, but gain 81K digital, 88K HSD and 49K phone. -- Verizon completed its acquisition of Terremark Worldwide.

## CableFAX Daily Stockwatch

| Company                      | 04/11<br>Close | 1-Day<br>Ch | Company                                  | 04/11<br>Close | 1-Day<br>Ch |
|------------------------------|----------------|-------------|--|----------------|-------------|
| <b>BROADCASTERS/DBS/MMDS</b> |                |             | <b>BLNDER TONGUE:</b> .....2.24.....0.05 |                |             |
| DIRECTV:.....                | 46.53          | 0.05        | BROADCOM:.....                           | 39.31          | (0.59)      |
| DISH:.....                   | 23.47          | (0.32)      | CISCO:.....                              | 17.47          | (0.18)      |
| DISNEY:.....                 | 41.89          | 0.13        | CLEARWIRE:.....                          | 5.95           | (0.03)      |
| GE:.....                     | 20.18          | (0.01)      | CONCURRENT:.....                         | 6.00           | (0.02)      |
| NEWS CORP:.....              | 18.34          | 0.04        | CONVERGYS:.....                          | 14.04          | (0.08)      |
| <b>MSOS</b>                  |                |             | CSG SYSTEMS:.....                        | 20.51          | 0.01        |
| CABLEVISION:.....            | 33.69          | 0.38        | ECHOSTAR:.....                           | 35.31          | (1.16)      |
| CHARTER:.....                | 54.25          | (0.56)      | GOOGLE:.....                             | 577.37         | (0.79)      |
| COMCAST:.....                | 24.55          | (0.13)      | HARMONIC:.....                           | 9.35           | (0.25)      |
| COMCAST SPCL:.....           | 23.14          | (0.11)      | INTEL:.....                              | 20.12          | 0.10        |
| GCI:.....                    | 11.29          | 0.17        | JDSU:.....                               | 18.91          | (0.39)      |
| KNOLOGY:.....                | 13.95          | 0.03        | LEVEL 3:.....                            | 1.70           | 0.26        |
| LIBERTY CAPITAL:.....        | 75.75          | 0.69        | MICROSOFT:.....                          | 25.98          | (0.09)      |
| LIBERTY GLOBAL:.....         | 42.74          | (0.11)      | RENTRAK:.....                            | 24.61          | (0.63)      |
| LIBERTY INT:.....            | 16.81          | (0.04)      | SEACHANGE:.....                          | 10.58          | (0.37)      |
| SHAW COMM:.....              | 21.78          | 0.22        | SONY:.....                               | 30.24          | (0.34)      |
| TIME WARNER CABLE:.....      | 72.80          | (0.05)      | SPRINT NEXTEL:.....                      | 4.71           | (0.02)      |
| VIRGIN MEDIA:.....           | 27.43          | (0.12)      | THOMAS & BETTS:.....                     | 57.89          | (0.37)      |
| WASH POST:.....              | 440.68         | (2.18)      | TIVO:.....                               | 8.42           | (0.21)      |
| <b>PROGRAMMING</b>           |                |             | TOLLGRADE:.....                          | 10.08          | 0.03        |
| CBS:.....                    | 24.44          | 0.17        | UNIVERSAL ELEC:.....                     | 28.21          | 0.10        |
| CROWN:.....                  | 2.31           | (0.06)      | VONAGE:.....                             | 4.69           | 0.10        |
| DISCOVERY:.....              | 40.22          | 0.15        | YAHOO:.....                              | 16.59          | (0.18)      |
| GRUPO TELEVISA:.....         | 22.98          | (0.06)      | <b>TELCOS</b>                            |                |             |
| HSN:.....                    | 32.66          | 0.01        | AT&T:.....                               | 30.66          | (0.05)      |
| INTERACTIVE CORP:.....       | 30.72          | (0.25)      | VERIZON:.....                            | 37.85          | 0.13        |
| LIBERTY:.....                | 43.02          | 0.02        | <b>MARKET INDICES</b>                    |                |             |
| LIBERTY STARZ:.....          | 77.27          | (0.95)      | DOW:.....                                | 12381.11       | 1.06        |
| LIONSGATE:.....              | 6.51           | (0.07)      | NASDAQ:.....                             | 2771.51        | (8.91)      |
| LODGENET:.....               | 3.21           | (0.23)      | S&P 500:.....                            | 1324.46        | (3.71)      |
| NEW FRONTIER:.....           | 1.81           | (0.01)      |  |                |             |
| OUTDOOR:.....                | 7.08           | (0.12)      |  |                |             |
| SCRIPPS INT:.....            | 50.15          | (0.4)       |  |                |             |
| TIME WARNER:.....            | 35.15          | (0.32)      |  |                |             |
| VALUEVISION:.....            | 5.85           | (0.02)      |  |                |             |
| VIACOM:.....                 | 53.92          | UNCH        |  |                |             |
| WWE:.....                    | 12.00          | (0.5)       |  |                |             |
| <b>TECHNOLOGY</b>            |                |             |  |                |             |
| ADDVANTAGE:.....             | 3.09           | (0.02)      |  |                |             |
| ALCATEL LUCENT:.....         | 5.60           | (0.13)      |  |                |             |
| AMDOCS:.....                 | 28.94          | 0.09        |  |                |             |
| AMPHENOL:.....               | 52.21          | (0.39)      |  |                |             |
| AOL:.....                    | 19.80          | (0.27)      |  |                |             |
| APPLE:.....                  | 330.80         | (4.26)      |  |                |             |
| ARRIS GROUP:.....            | 12.70          | (0.04)      |  |                |             |
| AVID TECH:.....              | 22.00          | 0.39        |  |                |             |
| BIGBAND:.....                | 2.50           | 0.03        |  |                |             |

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## GUEST COLUMNIST

### Retrans Reform... From Vanguard to Victory

This week's 18th ACA Summit in Washington, D.C., caps a year of great achievement for the independent cable community. As I look at the horizon, I see ACA's paramount objective continuing to be retransmission consent reform, an issue that affects all ACA members and their customers in profound ways, justifying ACA's time and expense in pursuing a reform agenda.

ACA began beating the drum of reform many years ago. We said retrans was outdated and doing far more harm than good. Ours was an unpopular view—yes, even with some within the cable family. We were told we were wrong, told we were just inviting the return of rate regulation. We were told to pipe down.

Confident the marketplace was broken, certain our friends in the broadcast industry would overplay their hand, we persevered. Today, ACA's take on retrans is the popular consensus with all except the TV station owners. I'm delighted ACA was at the vanguard in shaping the new political dialogue on retrans.

Retrans reform has gone from impossibility to a necessity. Reform foes now must confront ACA's claims on the merits and can no longer fog the debate with meaningless statistics. Broadcasters like to say 99% of retrans deals get done. My response: The Titanic avoided 99% of the icebergs.

Broadcasters let greed cloud good business judgment. ACA predicted the retrans debate would shift in our favor once millions of consumers got engaged. That has now happened. Broadcaster reliance on a "blackout or blackmail" strategy has backfired because it infuriated millions of American consumers socked with sudden signal loss on the eve of major cultural and sporting events. Retrans reform is a national priority for a

surging mass of consumers rebelling at being used as pawns by Big Media.

On March 3, the FCC responded with its new retrans rulemaking, an historic first step that will allow ACA to document how TV station owners are abusing their market power. Meanwhile, the National Association of Regulatory Utility Commissioners has put out-of-control retrans fees in a new context. It passed a resolution asking the FCC whether above-average program carriage fees paid by smaller cable providers financially hinder their broadband deployment plans.

ACA—a proud member of the American Television Alliance (ATVA), a broadly based coalition seeking new retrans rules—believes that real reform involves banning TV stations

from entering into collusive arrangements in order to gain undue leverage over small cable; banning third-party interference in the retrans negotiation process by networks and competing TV stations; and ending broadcasters' discriminatory fee structure relative to small cable providers.

ACA is flagging problematic TV station deals. The FCC, for example, needs to condition or block the sale of the ABC affiliate in Topeka, KS, to a company with a track record of jointly negotiating retrans in other markets. ACA is concerned the ABC station's new owner wants to join forces with the existing NBC-FOX duopoly and cash in by having control of three of the local Big Four stations, causing serious problems for the 10 ACA members that serve about 30,000 Topeka households.

ACA members here at this year's Summit should know that we're on the path to victory. Real change is coming to the retrans market. Except for the broadcasters (not surprisingly), no one is telling ACA to pipe down anymore.

*(Matt Polka is pres/CEO of the American Cable Association)*



**Matt Polka**

#### CableFAX WEBINAR

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