

CableFAX Daily™

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What the Industry Reads First

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Opening Round: NFL Argues Abuse, While Comcast Talks Price

When **Comcast** lost out to **NFL Net** on an 8-game, live package after offering a “substantial sum,” it “threatened” the NFL that it would tier the channel and “make life difficult going forward,” *Gregg Levy*, an attorney for the League, told an administrative law judge Thurs. Both sides summed up their arguments in opening statements before Judge *Richard Sippel*, who is hearing a carriage discrimination complaint that was filed by the NFL at the FCC. The FCC would have to approve any recommendations he makes. The League claims Comcast abused its status as a vertically integrated carrier when it moved the channel to a premium sports tier in '07. NFL Net wants to be treated the same as Comcast-owned nets **Golf** and **Versus**, which are carried on analog or digital basic in many systems. Comcast attorney *Mike Carroll* denied discrimination, except when it comes to price. “If that’s a sin, lock us up,” he said. “It’s not discrimination to make choices based on price.” Carroll said Comcast’s contract allowed the MSO to move NFL Net to a tier once the channel levied a surcharge for the live game package, adding that Comcast would put the channel on the same package as **Versus** and **Golf** if it cost a similar price. He gave no specifics but said NFL Net cost about 3 times more than the Comcast-owned channels. Whether Comcast’s contract permits it to move the net to a tier is the subject of a separate case in a NY appeals court. Judge Sippel asked why he should consider a contract that is in litigation. Comcast’s attorney reminded him that a lower court had ruled in Comcast’s favor, granting summary judgment. The judge also had questions for NFL during opening statements, asking whether a simple agreement on price would let NFL go on its desired tier. He also questioned how discrimination surfaces when a net has one-of-a-kind programming and controls of the price. Levy said that might be an issue if NFL Net wasn’t seeking a fair, competitive price, but he argued that it’s asking a market price paid by other distributors. He also said Comcast could avoid the surcharge by choosing not to carry the 8-game package. Opening statements were as much as the press heard Tues morning, with Sippel ordering anyone in the courtroom who had not signed confidentially clauses to leave when former NFL svp, biz affairs *Frank Hawkins* took the stand. Comcast’s *Brian Roberts* and former NFL commish *Paul Tagliabue* are expected to testify on Thurs.

Urban Planning: **BET** founder *Bob Johnson* admitted Tues that it was a little odd after many years with the **NCTA** to come to DC hand-in-hand with the broadcasters (“whom I hated when I was with NCTA”) and ask the **FCC** for help (“which we always thought meddled in our business more than they should have”). Johnson, speaking at a **Media Institute** lunch in Washington, was referring to his and **ION**’s Urban TV proposal in which minority investors could buy interest in ION licenses and operate on ION’s multicast streams. While he hopes operators will voluntarily do the deals, he said the FCC may need to mandate carriage. “History is that it has been a tough row to hoe,” he said, adding that he could probably name 10 people who have tried to gain carriage for minority programming on cable and can’t. He lauded *John Malone* for putting **BET** on **TCI** and taking an interest in the channel not because of a govt mandate, but because it made business sense.





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"If more industries had their version of John Malone, then there would be more successful African American businesses," he told the crowd. Johnson argued that Urban TV wouldn't tax cable ops' bandwidth or hurt other programmers. "It would simply be an awakening of more diversity, more minority ownership, and more opportunity for people who would never get that chance," he said. **NCTA** spokesman *Brian Dietz* said Urban TV should be treated the same as hundreds of other nets competing for cable carriage. "Cable created the entire appetite for diversity in television programming, and there is more programming diversity on cable than there ever has been," Dietz said. "Cable now offers dozens of channels that serve ethnic, foreign and minority audiences and will continue to provide the diverse programming that viewers want."

Advertising: Media agency **ZenithOptimedia** forecast an 8.7% drop this year in the US ad market and a 6.9% dip globally. In Dec, the company predicted a 6.2% US decline. Zenith expects online ad spending to achieve growth in '09, albeit at a much lower rate than in '08, and TV ad spending to decline. -- Spending on Web search advertising declined 3.3% sequentially in 1Q and 13% vs a year ago, according to **Efficient Frontier**, but the Q saw month-to-month improvements.

Competition: **Verizon** plans to launch this year 2 test markets for **LTE** broadband tech and approx 30 new markets in '10, according to an *Unstrung* interview with **Verizon Wireless** svp, product development *Roger Gurnani*. The telco is looking to complete a footprint-wide roll out 2-3 years after the '10 launches, said Gurnani.

In the States: **Nickelodeon** and **The Children's Museum of Indianapolis** will create 2 interactive exhibits based on the net's preschool series "The Backyardigans" and "The Wonder Pets!" The exhibits will eventually travel to 15 intl markets.

Carriage: **Liberty Sports Group** inked with **Intelsat** a US distribution pact covering its 3 RSNs, **FSN NW**, **FSN Pittsburgh** and **FSN Rocky Mountain**. -- **Bright House** launched French-language net **TV5Monde** in Tampa Bay for \$10/month on an a la carte basis. -- Denver-based RSN **Altitude Sports & Ent** now hits more than 3mln homes within its 10-state footprint through ops including **Comcast** and **Bresnan**. The net's national distribution totals approx 5.8mln homes, as **DISH** and **DirecTV** feature it in their RSN packages.

Mobile: For a 4th consecutive year, **Sprint** will offer **NFL Net's** live coverage of the NFL Draft (Apr 25-26) on Sprint TV-enabled handsets. Other features include blogs by potential draftees, analysis from **NFL.com** personalities and player bios.

Upfronts: **Bravo** is taking the scripted programming plunge, announcing development deals for "Blueprint," a serialized dramedy following 2 best friends of differing sexual orientation who own a NY architecture firm, and "30 Under 30," a series centered on various people who have earned recognition on the eponymous list, including a chef, gossip blogger and others. The net's pick-ups include artist competition series "American Artist" (wt) and fashion competition series "Launch My Line." Shows in development include "Eric B." (wt), about celebrity florist *Eric Buterbaugh*, and "Jackie's Gym Takeover," featuring gym owner *Jackie Warner* helping struggling gyms turn their businesses around.

Ratings: Despite the solid ratings and renewal of "Leverage" this year, **TNT** has cancelled "Trust Me," which zoomed from the starting gate to deliver a 2.7/2.66mln for its Jan 26 premiere. Then, however, the show's ratings fell to a 0.8/807K on Mar 3 and a 0.4/378K on Apr 7. Perhaps more surprising is the disappointing ratings received this season by **FX's** "Damages," which in Sept earned cable's 1st-ever **Emmy** wins for best actress in a drama (*Glenn Close*) and best supporting actor in a drama (*Zeljko Ivanek*). The show returned in early Jan with a 1.4/1.37mln and wrapped up Apr 1 with a 0.9/905K. Between the season premiere and finale, eps of the show typically garnered HH ratings in the 0.7-0.8 range.

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-- USA again won the week in prime, riding **WWE** content to a 2.3/2.25mln. **Fox News** followed with a 1.8/1.76mln, and **Disney Channel** (1.7/1.61mln), **Nick at Nite** (1.5/1.50mln) and **TBS** (1.3/1.29mln) completed the top 5.

-- **Brag Book**: **SNY's** Mon coverage of the 1st game from Citi Field in NY earned a 4.65 HH rating and avg viewership of 435K to become the highest-rated and most-watched **Mets** home opener ever on a RSN. -- The Sun ep of **Animal Planet's** "River Monsters" became with a 1.4/1.33mln the net's best-performing, regularly-scheduled prime telecast ever.

Programming: **ReelzChannel's** "Hollywood's Best Film Directors" this month features personal stories from Tinseltown elite. -- Public health advocate **Charles Stuart Platkin** helps people lead healthier lifestyles in **WE tv's** "I Want to Save Your Life" (Apr 25).

On the Circuit: The '09 **WICT PAR Initiative** survey is now available at WICT.org/research/par, with Jun 5 the deadline for completed surveys. Focused on pay equity, promotion opportunities and resources for work/life support, the initiative measures and supports the advancement of women in the cable/telecom industry.

Business/Finance: *Institutional Investor* magazine recognized **Time Warner Cable** and **Comcast** as having standout investor relations in the cable/satellite segment. **AT&T** led the telecom segment, **Disney** the ent segment.

CableFAX Daily Stockwatch

Company	04/14 Close	1-Day Ch	Company	04/14 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
BRITISH SKY:	24.60	(0.95)	AMPHENOL:	29.91	0.05
DIRECTV:	23.95	(0.42)	APPLE:	118.31	(1.91)
DISH:	12.82	(0.69)	ARRIS GROUP:	8.96	0.01
DISNEY:	19.02	(0.51)	AVID TECH:	10.07	0.07
GE:	11.51	(0.62)	BIGBAND:	5.89	0.21
HEARST-ARGYLE:	4.35	(0.16)	BLNDER TONGUE:	0.95	0.00
NEWS CORP:	8.39	(0.24)	BROADCOM:	22.66	(0.13)
MSOS					
CABLEVISION:	16.47	(0.92)	CISCO:	17.93	0.04
COMCAST:	13.86	(0.49)	CLEARWIRE:	5.16	(0.06)
COMCAST SPCL:	12.93	(0.55)	COMMSCOPE:	18.76	1.35
GCI:	6.98	(0.45)	CONCURRENT:	3.80	0.06
KNOLOGY:	5.00	(0.08)	CONVERGYS:	9.40	(0.06)
LIBERTY CAPITAL:	10.20	0.23	CSG SYSTEMS:	13.70	(1.18)
LIBERTY ENT:	22.10	(0.33)	EHOSTAR:	15.93	(0.08)
LIBERTY GLOBAL:	16.74	(0.37)	GOOGLE:	368.91	(9.2)
LIBERTY INT:	3.66	(0.08)	HARMONIC:	6.51	(0.27)
MEDIACOM:	4.78	(0.06)	INTEL:	16.01	0.03
SHAW COMM:	15.30	(0.23)	JDSU:	4.25	(0.02)
TIME WARNER CABLE:	27.80	(0.34)	LEVEL 3:	1.03	0.00
VIRGIN MEDIA:	6.36	(0.18)	MICROSOFT:	19.35	(0.24)
WASH POST:	387.50	2.92	MOTOROLA:	4.68	(0.13)
PROGRAMMING					
CBS:	5.17	(0.3)	NDS:	62.93	0.00
CROWN:	2.20	0.03	OPENTV:	1.57	(0.05)
DISCOVERY:	16.96	(0.7)	PHILIPS:	16.55	0.02
EW SCRIPPS:	1.89	0.04	RENTRAK:	10.37	0.14
GRUPO TELEVISA:	16.35	0.05	SEACHANGE:	6.12	(0.25)
HSN:	5.55	(0.09)	SONY:	25.40	(0.44)
INTERACTIVE CORP:	16.43	(0.17)	SPRINT NEXTEL:	4.03	(0.16)
LIBERTY:	24.22	(1.31)	THOMAS & BETTS:	29.15	(0.17)
LODGENET:	1.60	(0.05)	TIVO:	7.15	(0.25)
NEW FRONTIER:	1.73	0.00	TOLLGRADE:	5.24	(0.12)
OUTDOOR:	7.11	(0.14)	UNIVERSAL ELEC:	17.90	(0.66)
PLAYBOY:	2.00	(0.08)	VONAGE:	0.38	(0.02)
RHI:	2.93	(0.1)	YAHOO:	14.07	(0.35)
SCRIPPS INT:	26.22	(0.44)	TELCOS		
TIME WARNER:	21.91	(0.13)	AT&T:	25.28	(0.74)
VALUEVISION:	0.76	0.02	QWEST:	3.78	(0.07)
VIACOM:	20.43	(0.23)	VERIZON:	31.30	(0.44)
WWE:	11.27	(0.31)	MARKET INDICES		
TECHNOLOGY					
3COM:	3.44	(0.22)	DOW:	7920.18	(137.63)
ADC:	5.02	(0.19)	NASDAQ:	1625.72	(27.59)
ADVANTAGE:	1.50	0.01			
ALCATEL LUCENT:	2.19	0.05			
AMDOCS:	19.24	(0.27)			



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