

CableFAX Daily™

Friday — April 17, 2009

What the Industry Reads First

Volume 20 / No. 072

About Face: TWC Puts Bandwidth Tiering Plan on Hold

After 2 weeks of consumer complaints and threats of legislation, **Time Warner Cable's** putting the brakes on its consumption-based billing plan for broadband. Sen *Charles Schumer* (D-NY) was the 1st to deliver the news in a press conference Thurs, saying the MSO agreed to shelve its plan after he spoke to CEO *Glenn Britt*. TWC hasn't completely scrapped the idea, with Britt saying that the company "will not proceed with implementation of additional tests until further consultation with our customers and other interested parties, ensuring that community needs are being met." One of those consumer education efforts will be to make a bandwidth usage gauge available to all TWC subs so they can better understand how much they use, but there is no word yet on when the tool will be available. It will most likely be rolled out on a market-by-market basis. Freshman Congressman *Eric Massa* (D-NY) expressed pleasure at TWC's move but said he would still move forward with legislation to prevent Internet usage caps. Schumer pledged to ensure any changes going forward "are in line with what Rochester's families and small businesses need." Meanwhile, **NCTA** chief *Kyle McSarrow* continued to go head-to-head with the **Free Press** in the blogosphere (www.cabletechtalk.com), calling the group out for claims that TWC's metered usage plans were rolling "under the radar." The MSO couldn't possibly have been more transparent over the last year, including briefings with members of Congress and groups like the Free Press, he wrote. Thurs' announcement to pull back is "completely consistent with how they have approached this from the beginning." TWC had planned to begin trials in Aug in Greensboro and Rochester, where 2 months of usage data would have been gathered followed by a 1-month grace period in which overages will be noted on customers' bills. It had planned several different usage caps based on speed tiers. All of this is a great lesson for the industry, which continues to struggle with this issue. Last Oct, **Comcast** instituted a policy of limiting a HSD sub's monthly usage to 250GB, but announced no plans to charge for exceeding the limit. Subs who exceed the limit are contacted by the MSO. If contacted again for excessive use within 6 months, service will be subject to termination for 1 year. At the end of the day, McSarrow blogged, the goal is to let "the consumer make the ultimate choice of whether new models survive and thrive or are thrown into the dustbin of history."

Don't Call: Comcast will pay \$900K and **DirectTV** \$2.31mln to settle **FTC** charges that they violated the Do Not Call telemarketing provisions. **FTC** chmn *John Leibowitz* called it "especially troubling" that DirectTV is a "two-time offender." DirectTV paid \$5.3mln under an '05 Do Not Call order. According to the FTC, a DirectTV telemarketer (**InTouch**) and its 2 principals made more than 1mln calls of prerecorded messages in Aug and Sept '07. DirectTV said the campaign sought to determine if it had correctly recorded customers' do-not-call status and believed the messages were permitted because it wasn't attempting to sell anything. "The FTC disagreed, and we concluded it was in our best interest to settle rather than engage in costly, time-consuming litigation. We're happy to have this behind us," a DirectTV rep said. The FTC alleges that Comcast's internal call centers and third-party vendors made more than 900K calls to consumers after they specifically

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asked the company to stop calling them. A Comcast spokeswoman said the FTC found the MSO's compliance with the national Do-Not-Call registry to be at 99.85% and chose not to pursue any claims against the company in that area. The settlement is limited to alleged calls made to people on Comcast's internal Do-Not-Call list, where the MSO's compliance was 99.74%, according to Comcast's *Sena Fitzmaurice*. "Both compliance percentages are greater than those reported by the FTC to Congress last year as evidencing 'highly effective' performance," she said. "Since the period under review, we have further strengthened our policies and procedures to prevent unwanted telemarketing calls." In addition, a DirecTV telemarketer agreed to pay \$115K for making prerecorded sales calls to consumers who had asked not to be called.

NFL-Comcast: Former NFL commish *Paul Tagliabue* reiterated claims of retaliation when he took the stand Thurs in an ALJ hearing on **NFL Net's** carriage complaint against Comcast. After the League licensed the 8-game, live package to NFL Net instead of **Versus**, Tagliabue claimed Comcast's *Brian Roberts* said, "Your relationships with the cable industry are going to get very interesting," according to written testimony. Tagliabue alleged that Roberts' comments foreshadowed Comcast's "retaliation" against the NFL by moving the net from digital to a sports tier. Comcast CEO Roberts is set to testify Fri. According to his written testimony, Roberts will say he has no recollection of a statement along those lines, only that he expressed disappointment and predicted the NFL would likely face difficulties in persuading ops to carry the net. "I remember Mr. Tagliabue responding to the effect that, 'I may not disagree with you. Perhaps the owners are making a mistake here. Your offer may be better. Sometimes the owners have to learn the hard way,'" Roberts said in written testimony. The Comcast chief's testimony says he never threatened to place NFL Net on a tier if Versus didn't get the games but that the MSO had a "clear contractual" right to tier the channel, which would save it "over \$50mln a year" in affil fees.

Competition: DirecTV has inked with **NBA Digital** a deal to expand its distribution of **NBA TV** starting next season. The net will move in the fall to the DBS op's **Choice Xtra Package** from a sports tier, gaining approx 9mln homes. The net's currently in more than 12mln homes, and hopes to be in 30mln by next season. The pact marks NBA TV's 1st major deal since the league partnered with **Turner Sports** early last year to help grow the net and the league's other digital properties. -- **DISH** has become the exclusive US distributor of Egyptian Coptic Orthodox channel **Aghapy TV**.

Upfronts: Along with a new "Simply Fascinating" tagline, **WE tv** bowed a portable app, or **WEtget**, for mobile devices, desktops and social networking sites to simplify the duties of affils, media buyers and planners. Features include a custom media calculator, daily industry news from *AdAge*, an industry calendar, net videos and downloadable net assets.

Tons of Tweets: Yes, **CableFAX** is hip and cool, having recently established a presence on Twitter. But we're obviously not as cool as **CNN** or *Ashton Kutcher*, who reportedly has more than 900K followers at the site. The actor recently challenged the net to see who could garner 1mln followers 1st, piquing the interest this week of anchor *Larry King* and net founder *Ted Turner's* daughter. Funny thing, though: CNN didn't even own the @cnnbrk account that Kutcher was challenging until a recent purchase. Still, the challenge is good-natured, with Kutcher committing 10K bed nets to help fight malaria if he wins, and CNN has said it will match the number with a victory, or 1K with a loss.

High Praise: Classy move today by **ESPN/ABC Sports** pres *George Bodenheimer*, who issued a sincere statement regarding the retirement of NFL broadcasting legend *John Madden*—recently of **NBC's** league broadcasts and who, even in his 70s, surpassed the knowledge, candor and humor of other announcers in the football arena. "We will all miss

To Summ-it Up, CableFAX Daily Takes You There

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April 28

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Make sure your new or existing ad is placed in the April 28 issue. For assistance contact Debbie Vodenos; 301-354-1695; dvodenos@accessintel.com or Erica Gottlieb; 212-621-4612; egottlieb@accessintel.com

BUSINESS & FINANCE

his signature calls, his passion for the game and seeing him in the television booth each week of the NFL season, but his impact on the league and its fans will continue to be felt," said Bodenheimer. **Fox Sports** chmn *David Hill* also praised Madden, who he called a "heady mix of wisdom, football lore, and boyish glee."

In the States: 3.2% of US HHs (3.6mln) are still completely unready for the DTV transition that will take place June 12, reports **Nielsen**. That's an improvement of 200K HHs in 2 weeks. Albuquerque-Santa Fe is the least ready of 56 local metered markets. Providence-New Bedford is completely ready, Nielsen says. -- **Retirement Living** relocated to Baltimore from Columbia, MD. The new location is a \$30mln, 100K sq ft facility that includes capacity for 2 full production studios and the largest audience-rated studio in the state.

On the Hill: House Subcmte on Communications holds a hearing Thurs on recent developments in communications networks and privacy.

Business/Finance: The US Bankruptcy Court overseeing **Charter's** reorg allowed the MSO to pay in the normal course of business trade creditor balances incurred before it filed for bankruptcy on Mar 27. Also, the court gave Charter final approval to continue normal operations as proceedings continue. Now listed on the Pink Sheets under the CHTRQ ticker, shares of the MSO closed Thurs at 3 cents.

CableFAX Daily Stockwatch

| Company | 04/16 Close | 1-Day Ch | Company | 04/16 Close | 1-Day Ch |
|------------------------------|-------------|----------|-----------------------|-------------|----------|
| BROADCASTERS/DBS/MMDS | | | | | |
| BRITISH SKY: | 26.49 | 0.65 | AMPHENOL: | 31.49 | 2.71 |
| DIRECTV: | 25.50 | 1.19 | APPLE: | 121.45 | 3.81 |
| DISH: | 13.98 | 0.96 | ARRIS GROUP: | 9.39 | 0.37 |
| DISNEY: | 20.51 | 0.78 | AVID TECH: | 10.84 | 0.50 |
| GE: | 12.27 | 0.44 | BIGBAND: | 6.00 | 0.10 |
| HEARST-ARGYLE: | 4.65 | 0.17 | BLNDER TONGUE: | 0.90 | (0.05) |
| NEWS CORP: | 8.99 | 0.51 | BROADCOM: | 23.06 | 0.82 |
| MSOS | | | | | |
| CABLEVISION: | 17.07 | 0.50 | CISCO: | 18.08 | 0.52 |
| COMCAST: | 14.76 | 0.38 | CLEARWIRE: | 5.70 | 0.25 |
| COMCAST SPCL: | 13.86 | 0.42 | COMMSCOPE: | 19.49 | 1.50 |
| GCI: | 7.47 | 0.22 | CONCURRENT: | 4.21 | 0.10 |
| KNOLOGY: | 5.39 | 0.19 | CONVERGYS: | 9.57 | 0.08 |
| LIBERTY CAPITAL: | 11.21 | 1.25 | CSG SYSTEMS: | 14.65 | 0.95 |
| LIBERTY ENT: | 23.17 | 1.19 | EHOSTAR: | 16.18 | 0.20 |
| LIBERTY GLOBAL: | 18.38 | 1.48 | GOOGLE: | 388.74 | 9.24 |
| LIBERTY INT: | 5.32 | 1.36 | HARMONIC: | 6.65 | 0.12 |
| MEDIACOM: | 5.10 | 0.22 | INTEL: | 15.89 | 0.27 |
| SHAW COMM: | 15.41 | (0.19) | JDSU: | 4.33 | 0.22 |
| TIME WARNER CABLE: | 29.58 | 0.78 | LEVEL 3: | 1.03 | 0.01 |
| VIRGIN MEDIA: | 7.14 | 0.41 | MICROSOFT: | 19.76 | 0.93 |
| WASH POST: | 416.14 | 19.24 | MOTOROLA: | 5.10 | 0.23 |
| PROGRAMMING | | | | | |
| CBS: | 5.59 | 0.25 | NDS: | 62.93 | 0.00 |
| CROWN: | 2.39 | 0.17 | OPENTV: | 1.59 | 0.06 |
| DISCOVERY: | 17.78 | 0.84 | PHILIPS: | 16.78 | (0.28) |
| EW SCRIPPS: | 1.98 | 0.06 | RENTRAK: | 10.13 | (0.04) |
| GRUPO TELEVISA: | 16.76 | (0.37) | SEACHANGE: | 6.81 | 0.49 |
| HSN: | 5.74 | 0.30 | SONY: | 25.19 | 0.19 |
| INTERACTIVE CORP: | 16.81 | 0.51 | SPRINT NEXTEL: | 4.13 | (0.1) |
| LIBERTY: | 25.15 | (0.06) | THOMAS & BETTS: | 29.65 | 0.78 |
| LODGENET: | 1.69 | 0.04 | TIVO: | 7.47 | 0.25 |
| NEW FRONTIER: | 1.80 | 0.05 | TOLLGRADE: | 5.80 | 0.12 |
| OUTDOOR: | 7.25 | 0.00 | UNIVERSAL ELEC: | 17.55 | (0.13) |
| PLAYBOY: | 2.06 | (0.02) | VONAGE: | 0.38 | 0.00 |
| RHI: | 2.91 | (0.11) | YAHOO: | 14.43 | 0.41 |
| SCRIPPS INT: | 27.27 | 1.57 | TELCOS | | |
| TIME WARNER: | 23.73 | 1.50 | AT&T: | 25.99 | 0.54 |
| VALUEVISION: | 0.81 | 0.02 | QWEST: | 3.63 | (0.02) |
| VIACOM: | 20.86 | 0.67 | VERIZON: | 31.73 | 0.04 |
| WWE: | 11.15 | 0.07 | MARKET INDICES | | |
| TECHNOLOGY | | | | | |
| 3COM: | 3.73 | 0.18 | DOW: | 8125.43 | 95.81 |
| ADC: | 5.57 | 0.38 | NASDAQ: | 1670.44 | 43.64 |
| ADVANTAGE: | 1.60 | 0.04 | | | |
| ALCATEL LUCENT: | 2.37 | 0.15 | | | |
| AMDOCS: | 19.19 | 0.36 | | | |

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Luncheon: September 16, 2009
Location: Grand Hyatt New York, NY



PROGRAMMER'S PAGE with Chad Heiges and Seth Arenstein

A Truly Important Demo

With data pointing to the burgeoning importance of Hispanics to American media seemingly everywhere, multichannel ops are wisely responding. **Time Warner Cable**, for example, has broadened its Hispanic-focused content offerings in key markets such as L.A. and Dallas, and **DirectTV** has done the same nationally. And for a darn good reason: the Hispanic cable TV segment delivered 9.6% growth in ad expenditures last year, according to **Nielsen**, joining cable TV as the only media categories to achieve expansion. Is there any reason, then, to be surprised by the recent retrans success of **Univision (Galavision/TeleFutura)**? Now, the Internet appears deserving of programming initiatives to address the segment. After an analysis last month from **Scarborough Research** found Internet access among Hispanic adults has increased 13% since '04 vs 8% for all US consumers, new data from **comScore** shows the Hispanic online population reached a record 20.3mln visitors in Feb, representing 11% of the total US online market. That's huge. comScore also noted a surge in Web engagement among Hispanics, with time spent online and pages consumed up markedly. In fact, on a YOY basis in Feb, the total Hispanic Internet audience easily led the total Internet audience in growth among every key metric, including uniques, total usage minutes, avg minutes/day and avg visits/day. The greatest disparity occurred in total visits, which in the overall audience contracted by 1.8% while the Hispanic audience stoked a jump of 5.4%. Still, Hispanics account for just 9% of total time spent online, rendering segment usage patterns a hot commodity. Not surprisingly, US Hispanics' share of time spent was greatest among the community-teens category (18%). Next were gaming info and ent-radio with 13%, ent-multimedia with 12%, and a slew of categories tied with 11% including the separate services of discussion/chat and instant messengers. Obviously, the gettin' is good in the Hispanic media market. *CH*

Highlights: "Icons Among Us: Jazz in the Present Tense," Mon, 9p, **Documentary Channel**. Part I of IV examines young jazzers via interviews, but also copious musical clips. -- "Grey Gardens," Sat, 8p, **HBO**. We have a perfect storm of moviemaking here—the sets, costumes, music, not to mention stellar work from *Jessica Lange* and *Drew Barrymore*. The story revolves around *Big Edie* (Lange) and *Little Edie* (Barrymore) *Bouvier Beale*, an eccentric mother and daughter who vaulted to fame at their nadir. They got press when these relatives of *Jackie Onassis* were penniless, living in a squalid 28-room estate in East Hampton. More fame (infamy?) followed when the *Maysles* were granted access to the Beales to make a documentary about them, which HBO incorporates. Barrymore did more, studying it intensely, cloistering herself (like Little Edie) for months with research and coaches to "become" Little Edie. She succeeded. *SA*

Worth a Look: "Party Down," Fri, 10:30p, **Starz**. This comedy about catering waiters has been building momentum since week III, when the crew catered a singles mixer for seniors, with *Marilyn Hener* and *Ed Begley Jr* in excellent cameos. This week, the waiters cater an adult films awards after-party. To "Party Down's" credit, the ep largely avoids the obvious possibilities en route to belly laughs. *SA*

| Basic Cable Rankings (4/06/09-4/12/09) Mon-Sun Prime | | | |
|--|------|-----|------|
| 1 | USA | 2.3 | 2245 |
| 2 | FOXN | 1.8 | 1764 |
| 3 | DSNY | 1.7 | 1612 |
| 4 | NAN | 1.5 | 1497 |
| 5 | TBSC | 1.3 | 1288 |
| 6 | ESPN | 1.2 | 1210 |
| 6 | TNT | 1.2 | 1147 |
| 8 | LIFE | 1 | 1018 |
| 8 | A&E | 1 | 1014 |
| 8 | FX | 1 | 959 |
| 8 | TOON | 1 | 943 |
| 8 | HALL | 1 | 864 |
| 13 | HGTV | 0.9 | 921 |
| 13 | SCIF | 0.9 | 893 |
| 13 | DISC | 0.9 | 890 |
| 13 | HIST | 0.9 | 869 |
| 13 | TRU | 0.9 | 840 |
| 18 | SPK | 0.8 | 829 |
| 18 | CMDY | 0.8 | 811 |
| 18 | FAM | 0.8 | 785 |
| 18 | VH1 | 0.8 | 767 |
| 18 | CNN | 0.8 | 752 |
| 23 | FOOD | 0.7 | 733 |
| 23 | MTV | 0.7 | 724 |
| 23 | AMC | 0.7 | 661 |
| 23 | TVLD | 0.7 | 656 |
| 23 | TLC | 0.7 | 650 |
| 23 | MSNB | 0.7 | 612 |
| 23 | LMN | 0.7 | 453 |
| 30 | BRAV | 0.6 | 502 |
| 30 | BET | 0.6 | 500 |
| 30 | NOGG | 0.6 | 441 |
| 33 | ESP2 | 0.5 | 524 |
| 33 | HLN | 0.5 | 499 |
| 33 | APL | 0.5 | 443 |
| 33 | NGC | 0.5 | 320 |
| 37 | EN | 0.4 | 392 |
| 37 | SOAP | 0.4 | 293 |
| 37 | OXYG | 0.4 | 279 |
| 37 | WGNA | 0.4 | 278 |
| 37 | TV1 | 0.4 | 170 |
| 42 | TRAV | 0.3 | 324 |
| 42 | CMT | 0.3 | 287 |
| 42 | TWC | 0.3 | 255 |
| 42 | WE | 0.3 | 234 |
| 42 | GSN | 0.3 | 226 |

*Nielsen data supplied by ABC/Disney



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8:30am - 10:30am

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