

# CableFAX Daily™

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What the Industry Reads First

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## DISH's Bad Movie Sequel: DBS Op Faces Starz Ent, Disney Lawsuits

Only days after DISH settled its marathon legal battle with TiVo, the DBS op potentially faces a new legal morass with Disney and Starz Ent, which both sued DISH this week over its decision to offer Starz to subs for free through Jan '12. (Disney offers a number of movies through Starz nets). On Mon, *Charlie Ergen* said the price increase of \$3-5 on most packages enacted by DISH in Feb "has gone remarkably smoothly," and Starz alluded to the hike's apparent palatability to subs in its complaint against the DBS op. "In light of its substantial rate increase, Dish was likely concerned about its reputation as a 'value leader' and was likely concerned that its subscribers would be upset by its those increases," reads the Starz Ent complaint. "Thus, on information and belief, when it decided to raise rates, Dish also began looking for ways to take some of the 'sting' out of those increases and ultimately settled on using Starz to accomplish this goal." In essence, Disney and Starz argue that DISH must offer the net as a premium net, not as part of a basic program package. But in a statement Tues, DISH said it "pays hundreds of millions of dollars for the right to distribute Starz content to our customers, which includes the rights to a number of Disney movies, and our current distribution of Disney content on Starz is permitted under our contract with Starz. DISH Network does not have visibility to the contract between Starz and Disney, but we will vigorously defend our rights against any attempt to drag our customers into the middle of their dispute." Starz, however, said DISH's actions go beyond the scope of any "free preview" provisions in their contract. "...Starz does not permit Dish to simply give away its channels and content to its entire subscriber base," it stated in its suit. "Rather, the Dish Agreement includes several conditions on how Dish may offer these channels to subscribers which are intended in part to maintain the Starz and Encore channels' position as premium channels, and not simply 'basic cable' channels." In seeking preliminary and permanent injunctive relief against DISH for violations of the Copyright Act and "tortious interference with contractual relations," Disney/**Buena Vista Pay TV** said the DBS op's free preview "has already resulted in the repeated and continuing infringement of plaintiffs' copyright rights." Starz is requesting a jury trial, and said it has received notices of breach of its studio agreements from several of its movie studio partners.

**Playing Catch Up:** Still several months behind its major cable peers operationally because of past bankruptcy proceedings, **Charter's** looking ahead to advanced video services after its 1Q results included a loss of 25K video subs and a dip

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in video rev. "I really believe next-generation TV will be a game changer for us," said pres/CEO *Mike Lovett*, referencing plans to begin integrating **TiVo's** HD user interface and Premiere set top later this year. Slated for several pilot tests, the joint product will include an iPad app with command functions and limited viewing of recorded content, he said, and lead to an in-home iPad/tablet offering from the MSO in the future. Like **Time Warner Cable** and **Cablevision**, said Lovett, "we feel like we have those rights today to what in essence is an additional outlet off the secured network within the household." The MSO shed 26K standard digital subs yet added 75K advanced digital, and has ramped efforts to target safer customers. "All volume isn't necessarily good volume," said Lovett. Overall, 87K PSUs were added and customer relationships rose by more than 20K, and SDV and DOCSIS 3.0 penetration increased to 64% and 70%, respectively. Charter brought aboard 24K broadband subs and 88K phone, with Lovett bullish about trending in the former service. To counter a \$14.99/month DSL price from **AT&T** and price competition from DBS, Charter began touting packages with "beacon pricing" of \$29.99 for video or \$14.99 for broadband that required a 3-play bundle. What ensued, said Lovett, was a "rather dramatic, frankly, share flow... to us and across all the Charter footprints relative to DSL." As total rev rose 3.1% and adjusted EBITDA 4.7%, commercial rev jumped 17.1% YOY and 6.2% sequentially. Commercial PSUs increased 8.2% YOU, with more than 36% of business subs locked into a bundle. The segment remains a priority, and regarding M&A, Lovett said Charter has "a keen eye on commercial and not so much with looking at buying a revenue stream but really buying capabilities that would serve us well in the segment that we're targeting." No comment on the MSO's potential L.A. system sale. Charter shares fell 1%.

**Comcast:** Now armed with majority ownership of **NBCU**, **Comcast** flipped its usual script and reported 1Q results late Tues while postponing its conference call until Wed morning. After-hours traders responded favorably to news that featured strong growth in consolidated rev (+31.8%), op income (+14.9%), EPS (+9.7%) and FCF (+17.7%). "The performance of NBCUniversal was led by our cable networks, which posted strong growth across the board," said chief *Brian Roberts* in a release. "While we've only been operating the NBCUniversal businesses for three months, we're encouraged by a seamless integration, and we are working diligently to invest and build value for our shareholders." The NBCU cable nets posted a 13.3% rise in rev and 7.2% growth in operating cash flow, while NBC saw rev plummet 34.9% as total NBCU rev fell 11.5%. Comcast lost 39K video subs to fall behind **Netflix**, but added 418 HSD and 260K phone.

**Revenue Boost:** The PAC-10 (soon to be PAC-12) got the raise it sought for conference TV rights, agreeing to a 12-year, approx \$2.7bln deal with both **ESPN** and **Fox** that kicks off with the '12-'13 season and, according to *SBJ*, more than triples its annual TV revenue, making it the most valuable rights contract in college sports. An official announcement is expected Wed morning. ESPN and Fox entities will split the rights to PAC-12 football and basketball tilts, and sources said ESPN picked up online authentication rights. **Comcast/NBCU** lost out on the rights. "We were very interested in the Pac-12, but were simply outbid by Fox and ESPN. We wish all parties well," said **NBC Sports** Group chmn *Dick Ebersol* in a statement. The conference ultimately decided to work on launching a dedicated cable net alone, without an equity partner.

**Powering Off:** After integrating the '10 Census counts, **Nielsen** said its preliminary household universe estimates for '12 point to 114.7 TV homes, down from 115.9mln this year, and a decline in TV penetration to 96.7% from 98.9%. It's the 1st estimated decline since '92. Nielsen cited the digital transition, economic woes and the growth of alternative platforms.

**Earnings: MetroPCS** reported net sub additions of 725K, the highest total in history, and sub growth increased 21% YOY. In a release, CEO *Roger Linquist* noted continued interest in the company's Wireless For All plans and a "significant uptake" in Android smartphones. The majority of MetroPCS' 4G LTE network buildout is expected to be completed by Jan.

**Dinner Party: C-SPAN's YouTube** video of *President Obama* at the White House Correspondents Dinner Sat night has shot up to #1 on the net's viewing list, with nearly 6mln views in just 2 days, the network says. It eclipses C-SPAN's YouTube of the President's Jan '09 inauguration speech, which had nearly 5mln views after two and half years.

**Upfronts:** Following a record-setting '10 in viewership across all key demos, **History** announced its upfront programming slate while adding that '11 is on pace to set new records owing to "making huge in-roads in attracting younger viewers." Mini-series in dev "The Men Who Built America" ('12) will spotlight the influential builders and dreamers whose feats helped transform the country into a superpower after the divisive Civil War. Greenlit series and specials respectively include "Full Metal Jousting," presenting an authentic, full-contact jousting competition, and "Vietnam in HD," offering never-before-seen footage and personal accounts of the Vietnam War. -- After notching from Jan-Mar its best quarter ever,



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# BUSINESS & FINANCE

**Tr3s: MTV: Musica y Mas** launched a multi-city upfront tour touting new series including “Quiero Mi Baby,” which follows Latinos transitioning to parenthood, and “Date My Abuela” (wt), featuring a romantic set up of a family’s grandmother. -- **Discovery US Hispanic** announced as its upfront theme “Beyond,” meant to underscore an offering to advertisers to “go beyond” and leverage DISCA’s ability to create content-driven ideas and synergies that transcend language barriers.

**Honors: HBO and NBC** tied for the network lead in Sports Emmy Awards with 7 wins apiece, their respective wins including “Penguins-Capitals: Road to the NHL Winter Classic” for edited sports special and “Sunday Night Football” for live sports series. HBO’s “Hard Knocks” scored 3 wins. Next were **CBS** (6), **ESPN** (5) and **ABC** (3), which earned the live sports special nod for its World Cup coverage. **Fox** (3), **ESPN2** (2), **MLB Net** (2) and **NFL Net. DirecTV** was honored for NFL Sunday Ticket. -- **Discovery Comm** earned both of CTHRA’s Excellence in HR Awards, marking a 1st in the org’s history. DISCA’s Flexible Staffing Group took the Best Practices/HR Operational Efficiency Award and sr evp, global HR *Adria Alpert* notched the HR Leadership Excellence Award.

**Business/Finance: TV One** closed on its redemption of a 12.4% ownership interest held by **DirecTV**, raising **Radio One’s** stake in the net to approx 51%.

## CableFAX Daily Stockwatch

Company	05/03 Close	1-Day Ch	Company	05/03 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DIRECTV:	48.79	(0.01)	BLNDER TONGUE:	2.25	-0.00
DISH:	29.20	(0.59)	BROADCOM:	34.90	(0.32)
DISNEY:	43.07	(0.2)	CISCO:	17.41	(0.17)
GE:	20.64	0.16	CLEARWIRE:	5.12	0.05
NEWS CORP:	18.66	(0.18)	CONCURRENT:	5.65	(0.14)
<b>MSOS</b>					
CABLEVISION:	35.32	(0.05)	CONVERGYS:	14.09	(0.11)
CHARTER:	58.71	(0.59)	CSG SYSTEMS:	21.00	(0.34)
COMCAST:	26.61	(0.07)	ECHOSTAR:	33.90	(1.09)
COMCAST SPCL:	24.91	(0.07)	GOOGLE:	533.89	(4.67)
GCI:	11.06	(0.07)	HARMONIC:	7.93	(0.15)
KNOWLOGY:	14.72	(0.18)	INTEL:	23.23	0.32
LIBERTY CAPITAL:	83.28	2.24	JDSU:	20.27	(0.56)
LIBERTY GLOBAL:	45.78	(0.45)	LEVEL 3:	1.65	0.01
LIBERTY INT:	17.80	0.04	MICROSOFT:	25.81	0.15
SHAW COMM:	21.06	(0.13)	RENTRAK:	22.76	0.10
TIME WARNER CABLE:	76.41	(1.49)	SEACHANGE:	10.43	(0.01)
VIRGIN MEDIA:	29.90	(0.3)	SONY:	28.44	(0.36)
WASH POST:	448.35	8.41	SPRINT NEXTEL:	5.12	(0.07)
<b>PROGRAMMING</b>					
CBS:	25.24	(0.41)	THOMAS & BETTS:	56.58	(0.81)
CROWN:	2.25	0.10	TIVO:	9.44	(0.42)
DISCOVERY:	44.60	(0.05)	TOLLGRADE:	10.09	UNCH
GRUPO TELEVISA:	23.59	(0.13)	UNIVERSAL ELEC:	27.22	(0.24)
HSN:	34.18	(0.46)	VONAGE:	5.21	0.16
INTERACTIVE CORP:	35.84	(0.61)	YAHOO:	17.92	(0.22)
LIBERTY:	42.48	(0.55)	<b>TELCOS</b>		
LIBERTY STARZ:	75.35	(1.1)	AT&T:	31.86	0.65
LIONSGATE:	6.28	0.01	VERIZON:	37.80	0.24
LODGENET:	3.45	0.02	<b>MARKET INDICES</b>		
NEW FRONTIER:	1.73	(0.04)	DOW:	12807.51	0.15
OUTDOOR:	6.90	(0.08)	NASDAQ:	2841.62	(20.22)
SCRIPPS INT:	51.36	(0.6)	S&P 500:	1356.62	(4.6)
TIME WARNER:	37.73	(0.11)			
VALUEVISION:	6.17	(0.15)			
VIACOM:	57.91	(0.22)			
WWE:	10.75	(0.01)			
<b>TECHNOLOGY</b>					
ADVANTAGE:	3.05	UNCH			
ALCATEL LUCENT:	6.52	(0.02)			
AMDOCS:	30.35	(0.09)			
AMPHENOL:	55.52	(0.49)			
AOL:	20.40	(0.33)			
APPLE:	348.20	1.92			
ARRIS GROUP:	11.31	(0.3)			
AVID TECH:	18.01	(0.02)			
BIGBAND:	2.48	(0.01)			

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