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The Real News: Time Warner Sees CNN Concerns as Overblown

As far as **Time Warner**'s cable nets are concerned, there's little to dislike about the co's 1Q performance. The group delivered 9% growth in total rev, including increases across the subscription, advertising and content ledgers, and its op profit of $1.14bln established a historical record. But while Turner nets' domestic ad rev importantly superballed to a low double-digit rise on strong scatter pricing, the elephantine presence of continuing ratings pressure at TBS and particularly **CNN** remain troublesome to some outsiders—if not to Time Warner chief *Jeff Bewkes*. "Ratings are not where we'd like them," admitted Bewkes, adding he's still "very optimistic heading into the upfront" season. The co's working to "fix" CNN's ratings decline, he said, but noted that the net's economics are "much better than people realize." CNN has delivered the fastest earnings growth in the Turner portfolio over the last 5 years, and Bewkes expects another year of record earnings in '10. "As we had expected, it appears the street's concern over the decline at CNN's ratings was overdone," wrote **Collins Stewart** analyst *Thomas Eagan*, adding that Time Warner's "cable networks results were particularly notable given the decline in ratings." Last week, Eagan said CNN's ad rev represents just 5% of its overall income, thus mitigating any overall downside. Many media and financial pundits speculate CNN and **CBS News** are looking into a collaboration, and Bewkes didn't dismiss that option. "We look forward to working with CBS," he said. "We have obviously a lot going together on sports, [and] there are some possibilities in other areas." But while Bewkes said a deal could occur within 12 months, he left the door open to other partners as well. For months now, Time Warner has talked to news contingents "about taking advantage of CNN's efficiency and quality in news gathering and alleviating the cost problems that the broadcast news operators have" and about creating "rational improvements for both parties," he said. At the base level, said Bewkes, CNN's ratings woes aren't about its reach, scale or audience level, but rather the issue "that our viewers tune in for shorter periods" than do our competitors." Beyond CNN, execs posit strong overall ad growth for Turner nets in 2Q.

Title 1.5: The **FCC** chmn is set to announce Thurs an approach that uses Title II—at least partially—to address the broadband regulatory holes left by last month's **Comcast-FCC** court decision. "The Chairman will outline a 'third way' approach between a weak Title I and a needlessly burdensome Title II approach," said a sr FCC official. It would apply to broadband service "only the small handful" of Title II provisions that were previously believed to be within the Commission's purview,

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with "broad up-front forbearance" to protect against regulatory overreach, the official said. Broadband providers have strongly opposed Title II classification, the so-called "nuclear option." Specifics weren't available, but it sounds like a watered-down version of Title II classification—which will still probably draw challenges. Groups like **Public Knowledge** have been calling for a Title II solution for months. "We look forward to participating in this very crucial debate to ensure that even a weak Title II will still be strong enough to protect consumers," said PK's *Gigi Sohn*. On Wed, Rep *Fred Upton* (R-MI) sent his own letter to chmn *Julius Genachowski* warning against tearing up a broadband framework adopted by the *Clinton* administration that has been "enormously successful." But the chairs of the House and Sen Commerce cmtes, *Henry Waxman* (D-CA) and *Jay Rockefeller* (D-WV), sent their own letters urging him to consider all viable options. "This includes a change in classification, provided that doing so entails a light regulatory touch, with appropriate use of forbearance authority," they wrote, adding that they are committed to rewrite the law in the long-term if it's necessary. Meanwhile, Republican commish *Robert McDowell* sent a letter Wed to House Commerce leaders, providing a history of broadband classification. He emphasized that broadband has never been classified as a telcom service under Title II, something to which he also testified on the Hill in Mar.

Competition: **AT&T** launched **U-verse Online** as a rebranded and expanded entertainment Website that allows any online surfer to watch streaming shows, movies and video clips on a PC. For the telco's video subs, the site offers details about programming and TV events, including on demand titles, available apps and DVR management, and later this year video subs will be able to log in to access additional content choices at no extra charge. -- **Qwest**'s mass markets segment reported an 11% decline in overall rev to $1.2bln, including a 5% rise in strategic rev and 11% dip in legacy rev due to continued line loss. Net broadband adds totaled 40K (3mln total), **Verizon Wireless** subs 84K (922K) and video 11K (951K). Business markets rev dipped 1% to $1bln. **S&P** maintained its 'hold' rating on Qwest shares, seeing renewed customer activity in the business markets but persistence in access line losses. -- **Sinclair**'s 1Q local net broadcast rev, including local time sales and retrans rev, rose by 14.1%, while national net broadcast rev increased 8.2%.

To the Diamond: Ops and programmers have already taken swings with 3D telecasts featuring football, basketball, hockey and golf content, and a collaboration between **YES** and **DirecTV** will add baseball to the tech's lineup. The DBS op's HD customers (who also own a 3DTV) within the Seattle Mariners' and NY Yankees' respective telecast areas will receive free access to 3D telecasts of the Jun 11 and Jun 12 games featuring the 2 squads, through YES in NY and DirecTV's **FSN NW** in Seattle. The DBS op and **Panasonic** will be the features' presenting sponsors. The games coincide with DirecTV's plans to offer its HD subs a free software upgrade in Jun for access to dedicated 3D nets including **ESPN 3D**, its own **N3D**, a PPV movie channel and VOD channel. Come Jun and through '11, said DirecTV evp, ent *Eric Shanks*, "there's probably not going to be a week that goes by that there's not a 3D sports event available to DirecTV customers." YES COO *Ray Hopkins* said the net is approaching the pair of games as a 3D learning experience. N3D is slated to feature movies, docs and other undefined programming.

Technology: **Motorola** introduced a line of on demand servers designed to deliver multimedia content and services across TVs, PCs and mobile devices. Slated to begin shipping in 3Q, the line aims to enable rev generation for VOD, Internet video, time-shifted TV, network DVR and on demand advertising.

Advertising: The Natl Advertising Div of the **Council of Better Business Bureaus** recommended **Time Warner Cable** and **Cox** discontinue certain ad claims that characterize their hybrid fiber-coax networks as fiber optic networks. **Verizon** filed the complaints. TWC said it "respectfully, but vehemently, disagreed with NAD's decision" and requests a referral to the **National Advertising Review Board** for appeal. "Despite the undisputed fact that TWC's network is more than 90% fiber optic, NAD's decision seeks to stop TWC from making the true statement that it has a fiber optic network," the company said. "NAD's decision is unlimited and would go far beyond FiOS markets where there is no basis for a consumer to believe that TWC is offering a fiber to the home product. TWC would be prevented from referring to the benefits of its fiber optic network in markets in which its competitors, including Verizon, only offer DSL carried on copper wire all the way from its central offices." Cox, however, said that in the interest of supporting the self regulatory process it would take NAD's recommendations into consideration in future advertising, though it said it "firmly believes that the record provides a reasonable basis for describing its network as an 'advanced fiber optic network.'"

Upfronts: **A&E** is bringing back the creative team from "The Andromeda Strain" for a mini based on the novel by *Robin Cook* and film by *Michael Crichton*. "Coma" is a medical thriller about a doctor who discovers something sinister going on in her hospital. A&E's slate of new unscripted series includes "I'm Heavy," in which overweight individuals go through a 6-month program to transform their lives (premieres '11); a *David Hasselhoff* reality show focusing on his life as a single dad to 2 teens (4Q); and "Teach: *Tony Danza*," in which the actor becomes a 1st-year English teacher at a Philly high school (premiere '10). Scripted series in development include "Criminology," in which a psychology prof helps police with her study of human nature. -- Fresh off its 2 most-watched quarters in network history, **BIO Channel**'s new series include *William Shatner*-hosted "Shatner's Aftermath," which focuses on folks like *Jessica Lynch*, who became a national news item overnight (3Q); and "My Ghost Story," in which people tell their ghost stories, with hauntings on tape (July 17). Specials in the works include a 2-hour doc commemorating the 80th anniv of *Ray Charles*' birth.

Merger Mania: **Comcast** and **NBCU** told the **FCC** Wed that their proposed transaction won't hurt Web video, filing 2 economic reports requested by the FCC to restart the clock on their merger review. The online video report says that Web video is complementary rather than a substitute for traditional video—thus, there is no concern about foreclosure of online video distributor by Comcast. However, even if a viable online video service emerged, the report's authors conclude that Comcast would be highly unlikely to induce NBCU to withhold content from such distributors in order to increase Comcast's non-NBCU profits. It was authored by former FCC chief economist *Dr Michael Katz*, who is currently the dir of the Institute for Business Innovation at the University of California, Berkeley, and **Compass Lexecon** svp *Dr Mark Israel*. The other report providing economic support for claimed benefits, written by *Dr Gregory Rosston*, deputy dir of the Stanford Institute for Economic Policy Research, suggests that the deal will accelerate innovation in video distribution platforms, including an anytime/anywhere future of video viewing across multiple platforms. The FCC had stopped the clock on transaction comments until the reports came in. The deadline is now Jun 21 for comments or petitions to deny the deal, responses are due July 21.

Earnings: **Crown Media** bucked a recent cable trend by reporting a 4% dip in overall rev and 7% slide in ad rev due to depressed ratings, although sub fee rev increased by 11% on modest rate hikes and **Hallmark Movie Channel**

BUSINESS & FINANCE

experienced a 18% jump in subs, now totaling 34.2mln. Due to continued cost cutting, adjusted EBITDA increased 31%, while Crown's net loss totaled $2.3mln, compared to a loss of $7.5mln a year ago.

On the Circuit: **SCTE** is making good on its efforts to bring more programmers into the group, with **HBO** and **Turner** joining SCTE's standards setting program (***Cfax***, *3/22*). **Discovery** is an existing programmer SCTE member. They will be actively involved in the creation of standards designed to accelerate delivery of new video services.

People: **Charter** CTO *Marwan Fawaz* added evp, ops to his title. He will oversee Charter's East and West operating groups, customer care, HR and business intelligence group, in addition to continuing to lead Charter's network and technology organizations. -- *Megan Delany*, **Charter** vp, sr counsel of federal govt relations, is no longer with the MSO. No immediate word on whether Charter will put someone else in the DC office. -- **Current** hired former **AOL** and **Rainbow** PR exec *Matt Frankel* as svp, corp comm. He's based out of Current's NY office. -- **Broadstripe** promoted *Debra Wood* to CFO.

Business/Finance: **ActiveVideo Networks** acquired **TAG Networks** to add the network game platform to its CloudTV interactive streaming platform.

CableFAX Daily Stockwatch

Company	05/05 Close	1-Day Ch
BROADCASTERS/DBS/MMDS		
BRITISH SKY:	36.21	(0.43)
DIRECTV:	35.23	(0.36)
DISH:	21.82	(0.34)
DISNEY:	35.34	(1.25)
GE:	18.10	(0.48)
NEWS CORP:	16.99	(0.69)
MSOS		
CABLEVISION:	26.81	(0.41)
COMCAST:	19.74	(0.13)
COMCAST SPCL:	18.73	(0.18)
GCI:	5.94	(0.15)
KNOLOGY:	12.80	(0.32)
LIBERTY CAPITAL:	44.19	(0.69)
LIBERTY GLOBAL:	26.47	(0.94)
LIBERTY INT:	14.99	(0.37)
MEDIACOM:	6.59	(0.01)
RCN:	14.67	(0.01)
SHAW COMM:	18.44	(0.22)
TIME WARNER CABLE:	54.99	(1.07)
VIRGIN MEDIA:	17.16	(0.94)
WASH POST:	500.82	(1.88)
PROGRAMMING		
CBS:	15.58	(0.62)
CROWN:	1.80	(0.02)
DISCOVERY:	37.59	(1.28)
GRUPO TELEVISA:	18.99	(0.6)
HSN:	31.96	1.20
INTERACTIVE CORP:	21.77	(0.37)
LIBERTY:	35.83	(0.23)
LIBERTY STARZ:	54.44	(0.95)
LIONSGATE:	6.93	(0.07)
LODGENET:	5.95	(0.16)
NEW FRONTIER:	2.00	0.01
OUTDOOR:	6.74	(0.03)
PLAYBOY:	4.25	0.01
RHI:	0.27	(0.01)
SCRIPPS INT:	45.55	(0.5)
TIME WARNER:	31.88	(0.79)
VALUEVISION:	2.85	(0.18)
VIACOM:	37.67	(0.69)
WWE:	17.70	(0.52)
TECHNOLOGY		
ADC:	7.73	(0.3)
ADDVANTAGE:	2.69	0.17
ALCATEL LUCENT:	3.02	0.01
AMDOCS:	31.10	(0.38)
AMPHENOL:	44.11	(0.66)
AOL:	21.13	(0.12)
APPLE:	255.99	(2.69)
ARRIS GROUP:	12.13	(0.11)
AVID TECH:	14.50	(0.19)
BIGBAND:	3.38	(0.13)
BLNDER TONGUE:	1.20	-0.00
BROADCOM:	33.84	0.19
CISCO:	26.55	(0.01)
CLEARWIRE:	7.56	(0.15)
COMMSCOPE:	30.44	(0.16)
CONCURRENT:	5.51	(0.14)
CONVERGYS:	12.49	(0.05)
CSG SYSTEMS:	22.48	(0.31)
ECHOSTAR:	18.60	(0.16)
GOOGLE:	509.76	3.39
HARMONIC:	6.79	(0.19)
INTEL:	22.17	(0.23)
JDSU:	13.70	0.11
LEVEL 3:	1.43	(0.02)
MICROSOFT:	29.85	(0.28)
MOTOROLA:	6.87	(0.09)
PHILIPS:	31.18	(0.74)
RENTRAK:	22.52	0.54
SEACHANGE:	8.25	(0.06)
SONY:	33.28	(0.2)
SPRINT NEXTEL:	4.18	0.08
THOMAS & BETTS:	40.68	(0.29)
TIVO:	16.80	(0.34)
TOLLGRADE:	6.31	(0.04)
UNIVERSAL ELEC:	20.77	(0.63)
VONAGE:	1.74	0.16
YAHOO:	16.49	0.17
TELCOS		
AT&T:	25.77	(0.13)
QWEST:	5.42	0.17
VERIZON:	28.68	(0.07)
MARKET INDICES		
DOW:	10868.12	(58.65)
NASDAQ:	2402.29	(21.96)

Think about that for a minute...

Hair on Fire!

There are an alarming number of quotes in the papers these days from folks in Washington who sound like they're running around with their hair on fire. The crisis: the Internet is about to fail. The Internet and broadband communications in general are on a precipice of dangerous proportions if the FCC doesn't do something RIGHT AWAY! What they want the FCC to do is claim new authority over broadband ISPs under "Title II" of the Communications Act and declare them a "common carrier." That, in turn, will give the FCC power to create stiff new "network neutrality" rules.

Steve Effros

Naturally you have to accept a whole series of assumptions to get to this panicked position. First, you have to assume there is a serious, imminent problem with the current operation of the broadband Internet. There isn't. The panic is that ISPs could, theoretically, deny access to certain web sites, or start charging more for the same service to different Internet applications or information sites, or offer different levels of service and all of those things would "destroy" the Internet. None of those scenarios have much, if any, factual support. They haven't happened, even though they could have for the past decade.

Then you have to take the recent Court ruling that the Commission doesn't have the jurisdiction to impose heavy regulation on broadband suppliers under Title I of the Act and conclude that the only way to "save" the Internet from immediate demise is to claim new authority by reversing all prior decisions of the FCC on this subject, then say you are going to "forebear" from applying almost all of the regulations called for in Title II and only invoke "network neutrality" to assure the "free, open Internet" survives!

Amazing. As is well documented, there are virtually no instances of broadband service providers actually doing any of the nasty things the "hair on fire" crew (and that includes lawyers and lobbyists for some very big companies, and even some regulators and legislators as well as the "public interest" folks) say they are trying to prevent. Ironically, others are in a better position to do those things, and may already be doing some of them.

Let's just consider some numbers, compliments of an article in last week's *Bloomberg Businessweek*, on Apple. That company has distributed 4 billion "apps" from a store it controls on the Internet to proprietary devices it controls. Access and approval for those apps is totally Apple's decision. Folks using this closed system, controlled by one company, use 64% of all wireless mobile browsing minutes on the Internet. "Free" and "open" are certainly not the words that would characterize this business model. It controls far more Internet activity than any one ISP, but there seems to be no "hair on fire" suggestion that the FCC should regulate their "net neutrality."

Google gets over 60% of all "search" queries on the entire Internet, a pure "gatekeeper" function if there ever was one! They reportedly favor their own associated services in "results" for maps, directions, price checks and maybe more. All the things the "hair on fire" folks fear the ISPs might do. Well, it appears it's already being done! Google also gets special, "fast-lane" Internet delivery over most competitors because they have the clout to install their own proprietary servers nationwide. Is there any serious "fire drill" suggestion that Google and Apple would be a far more logical starting point to regulate, if you are really worried about a "free, open Internet"? Not yet.

Why?... To be continued.

Steve

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