

# CableFAX Daily™

Thursday — May 19, 2011

What the Industry Reads First

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## Program Carriage: All Distributors Could Be on Hook for Any MVPD's Programming

When it comes to program carriage complaints, there is talk about changing the rules so that any multichannel video provider could be challenged if they carry MVPD-affiliated programming—even if the MVPD has no ownership in the net. The FCC has an NPRM and order on program carriage rules on circulation, according to sources. The order aims to improve the procedures for addressing program carriage complaints, while the NPRM proposes additional revisions to the rules. Recent FCC filings frame the issue. In an ex parte about a Mon meeting at with staff of Commissioner *Mignon Clyburn*, **Verizon** worries that the FCC may expand the scope of program carriage rules so that independent programmers could file program carriage complaints “not only against a MVPD that allegedly discriminates in favor of its own similarly situated programming, but also against an MVPD that allegedly discriminates in the carriage of channels affiliated with any other MVPD.” In other words, any distributor that carries **Comcast's Style**, **Cablevision's MSG** or other MVPD-affiliated programming, could be open to complaints. Such a move signals that the FCC may have concerns about collusion among MVPDs. **HDNet**, which urged the FCC in Feb to complete a proceeding on program carriage rules, said Wed that it plans to “aggressively” support the proceeding. “We agree with the sentiment,” HDNet founder *Mark Cuban* told **Cfax**. “There is an obvious quid pro quo that exists. You carry my programming, and I will carry yours. It pre-empts independent networks from getting carriage and often forces us off.” Cuban said that while indie nets struggled to get and retain full distribution, MVPD-owned nets “never seem to lose carriage or want for lack of distribution.” Verizon told the FCC that such a change would be unlawful and inappropriate, especially when applied to a provider like itself that competes with large, vertically-integrated cable companies. Verizon said it has “no incentive whatsoever to discriminate in favor of these competitors’ programming and against independent programmers.” **NCTA** staffers met Mon with Media Bureau chief *Bill Lake*, urging that the Commission seek further input from interested parties before it considers adopting final rules. What’s being kicked around at the FCC now stems from a docket opened in ’07 under then-FCC chmn *Kevin Martin*. NCTA argued that the docket is more than 3 years old now and is based on a brief NPRM that “raised a small number of issues with no proposed rules.” The cable trade group pointed out that since that time the FCC has dealt with several program carriage cases that could help the record. Right now, an FCC ALJ is hearing a program carriage complaint **Tennis Channel** levied

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“What the Industry Reads First”

The ONLY Daily publication distributed  
at The Cable Show and Nationally

## 4 Special Issues PRE-SHOW: JUNE 6 PLUS 3 DAYS: JUNE 14, 15, 16

Before the industry converges in Chicago for The Cable Show, CableFAX will give readers a comprehensive overview of all the hot issues, panels, speakers and parties that will dominate discussion for the much-anticipated event.

Then during the show, CableFAX will devote extra pages to capture the full essence of the show from the general sessions to breaking news and announcements. With our national distribution, your message will reach everyone on-site as well as those who can't make it to Chicago.

### CABLE PRE-SHOW GUIDE AND INNOVATION ISSUE

Publication Date: June 6, Mid-Day with Bonus Distribution

### CABLEFAX DAILY: THE CABLE SHOW DAILY ISSUES

Publication Dates: June 14, 15 & 16



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against Comcast. In '09, an FCC ALJ heard **MASN** and **NFL Net's** complaints against Comcast, as well as **WealthTV's** complaint against Comcast, **Time Warner Cable**, **Bright House** and **Cox**. Like Verizon, NCTA is concerned about the rulemaking extending rules to programmers affiliated with any MVPD, saying such action would exceed FCC authority and "carry a high risk of adverse unintended consequences." **DirectTV** also has stopped by the Commission to raise similar warnings. Comcast weighed in recently with a few suggestions to the rules, including giving defendants 45-60 days vs the current 30 to answer a complaint. The MSO also urged the commission not to expand the rules in ways that would cause "uncertainty and delay," such as by mandating carriage before the FCC has determined a violation has occurred.

**Upfronts:** Upfront presentations are often noticed for the video clips that are played. But **TNT** and **TBS** made headlines Wed for the clips that wouldn't play. Given whole new meaning to the "We Know Drama" tagline, Turner blamed a power surge for disruptions to video. Turner Ent Nets pres **Steve Koonin** took to the stage to crack jokes, warning attendees to "ration their pastries" and tried to kill time by getting the audience to sing "Row Your Boat," according to reports. At the presentation, TNT confirmed its ordered a 10-ep season of LAPD crime drama "Major Crimes," starring **Mary McDonnell**. TNT is also working on a lineup of original movies set to debut in Nov and Dec, including a 2-hour movie based on **Scott Turow's** book "Innocent." TNT scripted series in development include a **Jay Cocks** ("Gangs of New York") project based on **Laura Lippman's Tess Monaghan** series of books (best-selling author Lippman is married to "The Wire" creator **David Simon**). At TBS, **Conan O'Brien** announced that he's taking his talker to NY Oct 31-Nov 3 to celebrate his 1st anniversary at TBS. He'll also do some filming from Chicago next year. Next summer, TBS is slated to premiere "The Wedding Band" (wt), starring **Brian Austin Green**. -- **Discovery US Hispanic** said it would double its production of original current affairs docs and series. Programming on tap includes "Destination 2111," which offers a futuristic picture of what life will be like in Latin America in 2111. Discovery said **Discovery en Español** will be among the 1st Hispanic pay TV nets to be measured with C3 ratings starting in Oct. -- The newly formed **Fox Hispanic Media** held its 1st-ever upfront Tues, with attendees treated to a luncheon prepared by celebrity chefs **Aarón Sánchez** and **Aquiles Chavez** of the **Utilísima** network. They also were introduced to newly-launched **Nat Geo Mundo** and enjoyed a surprise performance by **Karen Rodríguez**, a top 13 finalist from this season's "American Idol."

**Competition:** **DirectTV** started field trial testing its **Home Media Center** that will provide customers with a "receiver-less" solution for some TVs in their homes. The company plans to begin deploying the HR34 RVU-enabled server in Oct. RVU is a client/server-based technology that allows the television viewer to experience a consistent, pixel accurate server-generated user interface on various consumer electronics devices. -- **DISH** has added shows from **Cartoon**, **Adult Swim** and **truTV** to its "TV Everywhere" offering dishonline.com. Programming available within 24 hours after an ep airs includes "Robot Chicken" and "Hardcore Pawn." -- In Mobile, AL, and Grand Rapids, MI, **AT&T** has rolled out its Total Home DVR—which lets customers control shows on non-DVR TVs from any room in the home, even when the DVR is connected to a different TV. The new features are rolling out on a market-by-market basis to all U-Verse subs over the next few months.

**Carriage:** **Time Warner Cable's El Paquetazo** tier added **Lifetime Movie Network** in NYC and LA, the MSO's top Latino markets. El Paquetazo provides English and Spanish-language channels.

**Social Media:** **Oxygen** has developed a custom viewing app for **Facebook** that features a live video stream and chat so fans can chat live with each other and **Paris Hilton** during the premiere of "The World According to Paris," June 1. The "Paris Live" app begins at 9:45pm ET/PT, 15 mins prior to the start of the 1st ep.

**Programming:** **HBO Go** users will be able to watch ep 7 of "Game of Thrones" immediately after the debut of ep 6 Sun. Everybody else will have to wait until it debuts on the main **HBO** channel May 29. -- **TNA's** flagship program, "TNA Impact" will rebrand Thurs on **Spike** as "Impact Wrestling" to emphasize TNA's commitment to wrestling. The rebrand also comes with new tagline, "Wrestling Matters." "While the name change is subtle, it is also very powerful. TNA is proud to be in the wrestling business, and not afraid to say it," said TNA chief marketing officer **Al Ovadia**. -- **Disney** takes a comedic spin on vampire movies with "My Babysitter's a Vampire," June 10, 7pm. -- **Oxygen** will reveal the world premiere of "The Glee Project's" first music video "Firework" during Sat's "Glee" marathon in the 9pm hour. Oxygen's first "Glee" marathon grabbed 4+mIn viewers. -- **Ovation** will air a 90-min highlight special dedicated to Mon's annual Drama Desk Awards, June 4, 9pm ET/7:30pm PT. It'll be hosted by **Harvey Fierstein** and feature musical performances from some of the Outstanding Musical nominees. -- **Military Channel** will feature a live broadcast of the American Veterans Center's 2011

# BUSINESS & FINANCE

National Memorial Day Parade in DC, May 30, 2pm ET.

**Advertising:** **Discovery** and **Pizza Hut** are asking fans to vote online for their favorite of all myths, with Discovery to feature a specially created ep of "Mythbusters" featuring the winning viewer favorite myth, June 1. The show will be exclusively presented by Pizza Hut and feature 2 branded, short-form vignettes and custom show opens.

**Ratings:** **Military Channel's** showing of "Killing Bin Laden" (May 16, 10p ET) was the net's top-rated telecast ever for P2+ (561K), P25-54 (301K), P18-49 (285K), M25-54 (233K) and M18-49 (219K). It premiered on **Discovery Channel** the day before as the top non-sports program of the night (2.42mIn P2+).

**People:** **AMC** appointed former **DISH** exec *Marc Krok* as svp, AMC TV ad sales. -- Former Congressman *Rick Boucher* (D-VA) has joined the DC office of **Sidley Austin**, where he'll lead the govt strategies practice. -- **Suddenlink** hired **Kairos Advisors** principal *Mark Mihalevich* as vp, marketing strategy. -- **CNN** promoted *Sam Feist* to DC Bureau Chief. -- **BBC Worldwide Americas** upped *Gregg Brussel* to vp, research channels and ad sales.

**On the Circuit:** **Style** reality series stars *Bill* and *Giuliana Rancic* will emcee the 14th annual **Cable Hall of Fame** Celebration, June 14, Sheraton Chicago Hotel and Towers.

## CableFAX Daily Stockwatch

Company	05/18 Close	1-Day Ch	Company	05/18 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DIRECTV:	50.24	0.95	BLNDER TONGUE:	1.91	0.01
DISH:	29.94	1.05	BROADCOM:	34.24	1.25
DISNEY:	41.42	0.41	CISCO:	16.65	0.01
GE:	19.76	0.17	CLEARWIRE:	4.49	0.22
NEWS CORP:	18.29	0.26	CONCURRENT:	6.09	(0.02)
<b>MSOS</b>					
CABLEVISION:	33.73	0.37	CONVERGYS:	13.41	0.14
CHARTER:	57.36	1.18	CSG SYSTEMS:	19.35	0.33
COMCAST:	25.37	0.35	ECHOSTAR:	33.34	0.93
COMCAST SPCL:	23.87	0.36	GOOGLE:	529.81	(0.65)
GCI:	11.67	0.18	HARMONIC:	7.69	0.14
KNOLOGY:	15.12	0.20	INTEL:	23.88	0.33
LIBERTY CAPITAL:	88.08	3.35	JDSU:	20.42	0.73
LIBERTY GLOBAL:	44.85	0.09	LEVEL 3:	1.88	0.04
LIBERTY INT:	17.59	0.17	MICROSOFT:	24.69	0.17
SHAW COMM:	21.01	0.35	RENTRAK:	20.83	0.09
TIME WARNER CABLE:	77.63	1.06	SEACHANGE:	9.94	0.28
VIRGIN MEDIA:	32.20	0.29	SONY:	27.80	(0.27)
WASH POST:	415.79	(1.72)	SPRINT NEXTEL:	5.23	0.12
<b>PROGRAMMING</b>					
CBS:	27.04	0.98	THOMAS & BETTS:	55.45	(0.08)
CROWN:	1.95	(0.03)	TIVO:	9.49	0.18
DISCOVERY:	45.19	1.35	UNIVERSAL ELEC:	26.42	0.37
GRUPO TELEVISIA:	23.47	0.29	VONAGE:	4.68	0.27
HSN:	33.29	1.19	YAHOO:	15.96	(0.04)
INTERACTIVE CORP:	34.52	0.32	<b>TELCOS</b>		
LIBERTY:	41.94	0.32	AT&T:	31.20	0.08
LIBERTY STARZ:	76.26	2.02	VERIZON:	37.09	(0.02)
LIONSGATE:	5.95	(0.01)	<b>MARKET INDICES</b>		
LODGENET:	3.29	0.02	DOW:	12560.18	80.60
NEW FRONTIER:	1.66	0.05	NASDAQ:	2815.00	31.79
OUTDOOR:	6.22	(0.1)	S&P 500:	1340.68	11.70
SCRIPPS INT:	51.76	1.45	<b>TECHNOLOGY</b>		
TIME WARNER:	36.77	0.94	ADVANTAGE:	2.70	0.09
VALUEVISION:	6.20	0.18	ALCATEL LUCENT:	5.94	0.21
VIACOM:	59.62	1.60	AMDOCS:	29.88	0.52
WWE:	10.17	(0.17)	AMPHENOL:	55.22	0.62
<b>TECHNOLOGY</b>					
AOL:	19.15	0.41	AOL:	19.15	0.41
APPLE:	339.87	3.73	APPLE:	339.87	3.73
ARRIS GROUP:	10.94	0.23	ARRIS GROUP:	10.94	0.23
AVID TECH:	17.24	0.49	AVID TECH:	17.24	0.49
BIGBAND:	2.35	0.16	BIGBAND:	2.35	0.16

Which is the fastest growing segment of the multi-cultural nation?

a) African-Americans    b) Hispanics    c) Asian-Americans

**Answer: b) Hispanics**

The Hispanic segment grew by 40% in the last 10 years to 50 million people. Hispanic households text more than any other race or ethnicity, and are more likely to have cell phones with Internet (55%) and video capabilities (40%).

To find out more about The New Digital American Family visit [Nielsenwire.com](http://Nielsenwire.com).

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## Think about that for a minute...

### Copyright

By Steve Effros

Last week I commented on the renewed debate regarding the spectrum. This week it's another "oldie but goodie": copyright.

Yes, once again we are starting a new round of discussions on what should be done about copyright for broadcast signal carriage. I've been "translating" these debates for the past 40 years (!) and copyright is where

I started! What's even more disconcerting, we're arguing about the exact same questions.



The Copyright Office has found itself in the awkward position of having to deal with definitions and intentions relating to copyright treatment of broadcast television that were established in an

era now long gone. The rules and regulations of the early 1970s, when the "deals" were cut to allow the expansion of cable television into the major cities in exchange for the cable folks paying copyright fees (something that the copyright law at the time did not require, according to the Supreme Court), worked. Cable flourished. It became the broadband infrastructure we have today, one of the most extensive and best in the world.

But at the time, the television broadcasters were just too politically powerful, and they insisted on changes to the copyright law so that they could get some payment, even though they were "broad" casting the programming they controlled for free to anyone who could receive it. At the time cable simply helped folks receive it, but we had to pay up anyway or the FCC rules would not be changed to allow for growth in the major markets. That was the deal, and that's how the rules were written.

But today we have retransmission consent as well, and now there is distribution through the Internet. How does that all coexist with the old "deal"? The short answer is, it

doesn't. Hence, we are going to have to start the education process all over again regarding how we got to this point, what the intentions were and what the various parties are seeking today.

The "first round" of comments from the various industries runs the gamut from leaving the rules just the way they are, because it would be too complicated and politically fraught to do anything else, to getting rid of them completely and letting the "free market" take care of it. Of course, that would entail lots of other questions, like whether the antitrust laws apply to any effort by networks to create "exclusive" distribution contracts on a market by market basis. Yet another issue is whether the "must carry" rules make any sense any more... you know my thoughts on that one!

Anyway, here we are again. The whole set of issues looks like it may be opened up at least for debate, if not action, and it will engender lots of comments and lots of confusion. Claims of "theft" and "selling our signals" will ring the air again, as they have in the past, and a new set of complications will be added by the argument that the programming should be "free" on the Internet. What fun.

I invite you to look again at last week's column on the spectrum, and consider that the entire copyright debate we are about to re-engage in is inextricably intertwined with what has been done, up until now, with the broadcast television spectrum. If it wasn't "free TV," would that change the copyright considerations? If the spectrum were re-purposed, would we be having the same debate about copyright? Maybe we should just jump right to the real debate—a rewrite of the telecommunications law—and skip all these preliminaries.

*Steve*

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