

CableFAX Daily™

Friday — May 25, 2012

What the Industry Reads First

Volume 23 / No. 101

DISH Served: Broadcasters Dropper a Lawsuit on Hopper, DISH Also Files Suit

Will Fox & friends outsmart a Kangaroo? The courts will have to decide with Fox and NBC filing lawsuits in federal court late Thurs against DISH over the Hopper and its ability to instantly skip network TV commercials via "Auto Hop." No word at our deadline if ABC and CBS would join the party. "We were given no choice but to file suit against one of our largest distributors, DISH Network, because of their surprising move to market a product with the clear goal of violating copyrights and destroying the fundamental underpinnings of the broadcast television ecosystem," Fox said in a statement. "Their wrongheaded decision requires us to take swift action in order to aggressively defend the future of free, over-the-air television." DISH filed its own suit, asking federal court for a declaratory judgment on questions that have arisen related to the introduction of Auto Hop. It wants a declaratory judgment that AutoHop doesn't infringe on any copyrights and that it's in compliance with network agreements. DISH argues that Auto Hop doesn't substantially change consumer behavior. NBC said it had to file the suit to keep broadcast as a strong TV competitor. "Dish simply does not have the authority to tamper with the ads from broadcast replays on a wholesale basis for its own economic and commercial advantage," NBC said. News of the lawsuits is hardly surprising, with CBS, FOX and NBC already nixing DISH ads that mention the broadcast ad eliminator. At the **Cable Show** this week, **Discovery's David Zaslav** called it the "fad of the moment," warning that taking away ad revenues will result in higher sub fees. Others might argue that Auto Hop is DISH's attempt to gain leverage at the retrans table. DISH's Hopper features "PrimeTime Anytime," which allows customers to record with 1 click all programming from ABC, CBS, Fox and NBC (the same nets Auto Hop lets you automatically skip commercials for, starting the next day). In a lawsuit filed in US District Court Central District CA, Fox calls PrimeTime Anytime a "bootleg broadcast" VOD service that makes unauthorized copies of the entire primetime broadcast schedule for all 4 major nets every night. Fox also said that DISH's Sling Adapter redistributes and streams Fox's programming over the Internet in violation of copyright law and DISH's agreements with Fox. "In doing so, it competes unfairly with licensed providers such as iTunes and Amazon." In its suit, NBC claims that the Hopper interferes with its efforts to make primetime programming available to consumers for free through ad-supported services, such as Internet streaming Websites. "We respect the business models that drive our industry, but we also



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Let us know the executives that you think should be included in our annual list of Most Influential Minorities in Cable. CableFAX is also partnering with NAMIC to honor the Most Influential Minorities in Cable at an awards breakfast during the Annual NAMIC Conference, as part of Diversity Week. www.cablefax.com/diversity



Nomination Deadline: Friday, June 8, 2012

If you think that you work at a great place - nominate it! Give your company a chance to be seen in our annual list of the Top 10 Places to Work in Cable, which will appear in the September 2012 issue of *CableFAX: The Magazine*. www.cablefax.com/work



Nomination Deadline: Friday, June 15, 2012

Who are cable's most powerful women executives? Help us decide by nominating the executives you think should be included in our annual list of the Most Powerful Women in Cable. We will rank the most powerful women in the November 2012 issue of *CableFAX: The Magazine*. Nominations are open to all cable operators, programmers, vendors and trade associations. www.cablefax.com/powerfulwomen



Nomination Deadline: Friday, June 22, 2012

Submit your colleagues, your boss or even yourself for consideration for the CableFAX 100! This annual cable industry power list will appear in the December edition of *CableFAX: The Magazine*. www.cablefax.com/cablefax100

Please Contact Shannon Nelligan, Senior Marketing Manager,
SNelligan@accessintel.com with any questions.

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CABLEFAX DAILY (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefaxdaily.com ● fax:301.738.8453 ● Editor-in-Chief: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Exec Editor: Michael Grebb, 818.945.5309, mgrebb@accessintel.com ● Community Editor: Kaylee Hultgren, 212.621.4200, khultgren@accessintel.com ● Publisher: Debbie Vodenos, 301.354.1695, dvodenos@accessintel.com ● Assoc Publisher: Amy Abbey, 301.354.1629, aabbey@accessintel.com ● Marketing Dir: Barbara Bauer, 301.354.1796, bbauer@accessintel.com ● Prod: Joann Fato, 301.354.1681, jfato@accessintel.com ● Diane Schwartz/VP and Group Publisher ● Subs/Client Services: 301.354.2101, fax 301.309.3847 ● Group Subs: Amy Russell, 301.354.1599, arussell@accessintel.com

embrace the evolving nature of technology and new ideas,” said DISH svp, programming *David Shull*. “Advances in the ability to measure and target viewership will give the entire industry—including advertisers—the ability to develop better programming, more effective advertising and deliver an overall better experience to the viewer.”

Spectrum Wars: It's not just competitors and the consumer groups raising flags over **Verizon Wireless'** spectrum and marketing deals with cable. Sen Judiciary Antitrust subcmte chmn *Herb Kohl* said he hasn't reached any final judgment on the legality of the transactions, but he believes they “present serious competition concerns” which the **FCC** and **DOJ** should examine closely. Kohl told the heads of the 2 agencies in a letter to take note of the timing of the deal (days after the abandonment of the proposed **AT&T/T-Mobile** merger), asking that they examine whether other competitors had a fair opportunity to bid on cable's spectrum. As for the marketing agreements and joint technology venture, Kohl urges the agencies to seriously consider taking action to prohibit the marketing deals from taking place in the area in which FiOS is currently deployed or where Verizon has received approval to build FiOS. He also is concerned about VZ's 12-state footprint not served by FiOS because the telco competes with cable with respect to Internet and landline phone there. While opponents of the transactions jumped on Kohl's comments, Verizon downplayed the letter. “Because these transactions present unique issues that will deliver major consumer benefits, it is appropriate for Senator Kohl to carefully examine the issues that are also being studied by the appropriate agencies,” said *Tom Tauke*, Verizon evp, public affairs, policy and comm. “While Senator Kohl's letter recounts the arguments reviewed at the Senate hearing, it is another indication that this transaction is on the road toward approval this summer.” It also pointed out a letter from *Sen Mike Lee* (R-UT), which said the deal with **Cox**, **Comcast**, **Bright House** and **Time Warner Cable** appears to be pro-competitive and likely to benefit consumers “by putting previously fallow spectrum to efficient use, expanding consumer choice through the introduction of a new bundled offering and spurring innovation in the development of new technologies and products.”

Top 5: Now that we're all away from the lobster rolls and convention center chaos, it's time to reflect on what Cable Show 2012 taught us—besides that **MSNBC's Chris Matthews** is really loud. **1. Collaboration is center stage.** It wasn't just the announcement that 5 operators (and maybe more down the road) would be linking up free WiFi for customers, although that was a biggie. But there was just a general sense of working with technologies and companies, instead of against them. Take **Cox** pres *Pat Esser's* comments that 40% of his HSD customers had a **Netflix** stream in March, and his recognition that it's something important to deliver to his subs. No more hand-wringing about how OTT might eat everyone's lunch. Add to that **Comcast** jumping in as the 1st MVPD partner for Verizon Wireless' mobile search portal. There seemed to be fewer questions about how to meet consumers' demands and more of a focus on just doing it. “This year's Cable Show didn't disappoint—in other words, the [Cable] Union seems to be STRONG. They're co-marketing Wi-Fi. They're (finally) offering wireless without spending an incremental penny on a network. And that was before things even heated up. The show was, at least in Cable Show terms, a packed event,” wrote **ISI Media's** research team. **2. The show floor has a different vibe.** Noticeably missing this year from the floor were the **Viacom** nets. But the 275 exhibitors were on par with the 280 in Chicago (L.A. boasted 345, but that included the very large “My World” exhibit). The booth star power seemed a bit dimmer (seriously, could *P Diddy* not get away to promote his upcoming cable net **Revolt?**). The crowd also was a little thinner (12K in Boston vs 13K in Chicago '11 and L.A. '10) But the changing floor dynamic isn't all bad. Never a booth babe bonanza like CES, we only spotted a few at smaller booths. In '08, then- **MTVN** chmn/CEO *Judy McGrath* lamented that she'd like to walk the floor and “not see a half-naked woman sitting in a martini glass.” Her wish has come true, with booth babes appearing to have gone the way of analog TV sets. Instead, the floor featured Harvard and Columbia debate teams, courtesy of **Halogen**. Smarty pants vs. hot pants. We like it. **3. Comcast has the pedal all the way to the floor.** Comcast used the event to make several big announcements, from WiFi phone service to its X1 enhancements and its Project Dayview interactive dashboard linking multiple devices to Xfinity. “Clearly leading the sector in cable innovation, Comcast should be able to monetize its investment in X-1 (the platform designed for cloud-based UI to all home devices) and Streampix (its streaming service) with lower churn and higher ARPU,” wrote **Canaccord's Tom Eagan**. **Wells Fargo's** Marci Ryvicker said it simply: “Comcast gets it.” **4. Usage-based pricing is inevitable.** **FCC** chmn *Julius Genachowski* delivered that memo by throwing his support behind the business model during his Q&A

BUSINESS & FINANCE

with NCTA head Michael Powell.

5. Boston is a nice venue for the show. We heard this from just about every attendee. Please bring it back there, NCTA!

Programming: TV Land ordered pilots for 2 new original sitcoms: "I'm Not Dead Yet," a single-camera comedy about a man who finds out he has a rare heart condition that could cause him to die at any moment, so he decides to speak his mind and live life to the fullest; "Brothers-in-Law," which centers on the family dynamic between a husband and the eccentric fiancé of his wife's twin sister. -- A first for Starz, The net will air all 29 eps of "Spartacus" in chronological order on Fri nights, beginning June 8.

Honors: Reps from UXP Systems and Motorola Mobility were named as the winners of the Cable Show's CIO.IT Competition, beating out more than 35 companies. Competitors with the winning entries were: The Cloud, Service Oriented Architecture (SOA) and Cable – Gemini Waghmare, UXP Systems; Big Data and Analytics – Patrick Wright-Riley, Motorola Mobility.

Business/Finance: Longkloof upped its unsolicited offer for adult programmer New Frontier to \$1.75/share, up from \$1.35/share in March. Manwin, which manages Playboy's digital assets, made an unsolicited bid of \$1.50/share in March.

CableFAX Daily Stockwatch

Company	05/24 Close	1-Day Ch	Company	05/24 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	46.37	0.22	CLEARWIRE:	1.22	UNCH
DISH:	28.51	0.14	CONCURRENT:	3.44	(0.01)
DISNEY:	44.44	0.23	CONVERGYS:	13.89	0.38
GE:	19.25	0.07	CSG SYSTEMS:	16.29	(0.11)
NEWS CORP:	19.58	0.16	ECHOSTAR:	27.36	(0.17)
MSOS					
CABLEVISION:	11.66	0.26	GOOGLE:	603.66	(5.8)
CHARTER:	64.21	(0.4)	HARMONIC:	4.21	(0.02)
COMCAST:	28.93	0.14	INTEL:	25.65	0.21
COMCAST SPCL:	28.64	0.10	JDSU:	9.91	(0.45)
GCI:	6.50	(0.18)	LEVEL 3:	22.47	(0.19)
KNOWLOGY:	19.57	0.12	MICROSOFT:	29.07	(0.04)
LIBERTY GLOBAL:	47.43	(0.06)	RENTRAK:	16.00	0.03
LIBERTY INT:	17.11	(0.11)	SEACHANGE:	8.00	(0.18)
SHAW COMM:	18.95	(0.02)	SONY:	13.76	(0.07)
TIME WARNER CABLE:	76.90	1.16	SPRINT NEXTEL:	2.53	0.07
VIRGIN MEDIA:	21.82	0.03	TIVO:	9.20	0.14
WASH POST:	339.35	4.21	UNIVERSAL ELEC:	13.02	(0.11)
PROGRAMMING					
AMC NETWORKS:	38.88	0.35	VONAGE:	1.73	(0.02)
CBS:	31.63	0.18	YAHOO:	15.35	(0.03)
CROWN:	1.49	(0.03)	TELCOS		
DISCOVERY:	50.32	0.54	AT&T:	33.64	0.28
GRUPO TELEVISIA:	19.92	(0.05)	VERIZON:	41.39	0.11
HSN:	38.89	0.63	MARKET INDICES		
INTERACTIVE CORP:	44.81	(0.49)	DOW:	12529.75	33.60
LIONSGATE:	12.95	0.15	NASDAQ:	2839.38	(10.74)
LODGENET:	1.18	(0.22)	S&P 500:	1320.68	1.82
NEW FRONTIER:	1.71	UNCH			
OUTDOOR:	6.40	(0.1)			
SCRIPPS INT:	53.65	1.05			
TIME WARNER:	34.58	0.16			
VALUEVISION:	1.70	0.07			
VIACOM:	52.87	1.34			
WWE:	8.03	0.04			
TECHNOLOGY					
ADDVANTAGE:	2.22	0.01			
ALCATEL LUCENT:	1.60	0.03			
AMDOCS:	29.18	(0.33)			
AMPHENOL:	53.26	(0.18)			
AOL:	27.61	(0.09)			
APPLE:	565.32	(5.24)			
ARRIS GROUP:	12.33	0.17			
AVID TECH:	6.79	(0.27)			
BLNDER TONGUE:	1.00	UNCH			
BROADCOM:	31.15	(1.14)			
CISCO:	16.39	(0.3)			

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CableFAX Daily™
 Wednesday - January 11, 2012 What the Industry Reads First Volume 23 / No. 006

OTT Musings: Stakeholders Debate Evolving Content Delivery at CES
 With the Comcast/Disney distribution deal a harbinger for TV Everywhere and Fox's move last summer to put select content behind a pay wall, panelists mulled the ins and outs of over-the-top delivery at an OTT panel at CES. "The tablet, the device, is going to control the TV experience at U-verse," said Jeff Weber, AT&T VP, product and strategy, noting the company's drive into tablet apps and model of providing APIs for developers to send content from device to television. But discernment is critical, panelists agreed. While AT&T has an approval process in place, YouTube abandoned its API-based partnership model two years ago "because we ended up with different apps on diff TV, and performance differed," said Francisco Valera, dir/global head of platform and games partnerships. Touting YouTube's deals with Samsung, LG and its new Xbox partnership, "if we can't control the app, and update features quickly, it's a lost cause," he said. YouTube's recent-day model of investment in original content will stretch the company's presence in specific categories such as "niche cooking and unique travel" channels. "We don't see ourselves becoming a large studio, but we're more than dogs on skateboards," Valera quipped. "We want to bring in proven providers of broadcast quality content that's not sustainable in the cable universe." Valera said YouTube is working on its fourth UI, and moving toward the HTML 5 standard. Noting that unlike other video distributors YouTube always owns its TV and mobile content rights, "Can we bring our content to an AT&T, Cox or Comcast? We can, and that's where we are excited," he said. Initial deals with distributors are rolling out in Europe and Asia, he said. At Cox, focus remains on the UI. "It's important to get the user interface right, especially as more content is added in," said Lisa Pickelsimer, executive director, video product development. Integrated search, recommendations and social media will become more key, Pickelsimer said, noting the bigger role of metadata and the need

PROGRAMMER'S PAGE

Turning Your Kid into a TV Test Subject

After **Sanford Bernstein's** recent research report claimed that kids' networks (not just **Nick**) are getting "decimated" in streaming homes vs non-streaming HHs, we decided to turn to **CableFAX's** expert 6-year-old TV watcher (and my daughter), *Ashlyn Maclean*. When asked how she preferred to watch TV, she immediately declared, "The Wii," which is how we stream **Netflix** in our home. For the record, she has no idea what Netflix is. We probably have more VOD choices through **Comcast**, but she is constantly amazed by all the pictures on the Netflix user interface. Unlike with Comcast VOD, she can actually navigate Netflix by herself. Sanford Bernstein's report, based on its analysis of **TiVo** Stop-Watch data, found that **Viacom** nets only had 2% of ratings growth in streaming homes vs 6% in non-streaming homes. **Disney** had 6% in steaming vs 11% in non-streaming. In Ashlyn's case, she is not watching the same content on Netflix that she can find on linear TV. So, yes, her Netflix time cannibalizes her non-streaming TV time, but she does still seek out specific shows from Nick, Disney, **Cartoon**, **The Hub**, etc. Right now, she mainly uses Netflix to view the animated "Adventures of Tintin" series and "Dragon Tales"—neither is available on traditional TV. Her favorite show on TV right now is a new series from **Disney Junior**, "Doc McStuffins." On the flip side is my 17-month-old son Evan. I try to limit his TV watching, but he really loves Nick's "The Fresh Beat Band" (and it's just so adorable watching him dance). There are only 4 eps available on VOD, with a refresh rate of about once every 2 weeks. So we usually go straight to Netflix where we have 1-2 whole seasons of "The Fresh Beat Band" available. Disney has the option to pull its content from Netflix in Q3, while Viacom must wait until Q213, according to Sanford Bernstein. My Mommy 2 Cents: if there is quality kids' content that can't be found on traditional TV (such as "TinTin"), it may not matter what Disney and Nick choose to do. — *AM*

Reviews: "Witness: G.I. Homecoming," Memorial Day, 10p, **Nat Geo**. This highly emotional special works on several levels, especially its ability to put a face on the 2mln+ service people who've been deployed since 9/11. Here they're coming home, but with a twist—it's a surprise, captured on **YouTube**. Their stories are beautiful and effectively told. Of course, beneath the happiness viewers inevitably will remember those who never made it home. -- "Hatfields & McCoys," Memorial Day-Wed, 9p, **History**. Many smack History for straying from its mission. But here History has assembled an intense epic in 6 hours over 3 nights, beginning Memorial Day. The basic story is known, but History adds details and a stellar cast and strong production values. But, lean in, Devil Anse Hatfield (*Kevin Costner*) had 11 children and Randall McCoy (*Bill Paxton*) had at least 7. Both men had plenty of relatives, making it hard sometimes to remember who's who. -- "Mermaids: The Body Found," Sun, 9p, **Animal Planet**. They're mermaids, but not the *Daryl Hannah* variety. This eerie doc spoof posits the U.S. Navy has discovered a species of human/fish. Biologists believe the species stems from a variant of man that spent more time in the ocean than on land and evolved to grow webbed hands, gills and spotted tails. Well, it is the culmination of Animal Planet's first "Monster Week," after all.

Basic Cable Rankings (5/14/12-5/20/12)			
Mon-Sun Prime			
1	TNT	2.6	2604
2	USA	1.9	1892
3	ESPN	1.6	1573
4	DSNY	1.5	1464
5	HIST	1.4	1429
5	FOXN	1.4	1361
7	TBSC	1.2	1214
8	ADSM	0.9	891
8	A&E	0.9	866
8	DSE	0.9	62
11	SYFY	0.8	804
11	HGTV	0.8	791
11	FX	0.8	783
11	FOOD	0.8	771
11	AMC	0.8	747
11	NKJR	0.8	619
17	FAM	0.7	715
17	DISC	0.7	712
17	TRU	0.7	693
17	LIFE	0.7	693
17	BRAV	0.7	648
17	SPD	0.7	575
17	LMN	0.7	558
24	TLC	0.6	634
24	TVLD	0.6	616
24	NAN	0.6	604
24	CMDY	0.6	568
24	SPK	0.6	566
24	MSNB	0.6	541
24	ID	0.6	436
31	MTV	0.5	522
31	APL	0.5	469
31	HALL	0.5	457
31	BET	0.5	440
31	NBCS	0.5	409
36	EN	0.4	421
36	VH1	0.4	404
36	NGC	0.4	325
36	HMC	0.4	165
40	CNN	0.3	337
40	TRAV	0.3	296
40	HLN	0.3	295
40	OXYG	0.3	245
40	OWN	0.3	237
40	GSN	0.3	222
40	DXD	0.3	216

*Nielsen data supplied by ABC/Disney

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