

CableFAX Daily™

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What the Industry Reads First

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Innovate to Dilate: Industry Eyes Growth Through New Products, Services

Innovation is arguably the lifeblood of any industry or company, but it may be even more integral to the pay TV industry as it stands at the vexing intersection of a strained US job market, consumers' changing content consumption patterns and slowing growth across most services. That importance was highlighted at the **Barclays Capital** conference Wed, where **TiVo**, **Comcast** and **DirectTV** all weighed in. TiVo's angle concerns the ongoing litigation with **DISH**, at its core an issue addressing the ownership of innovative DVR patents—with critical differentiation at stake. As he did during the co's Tues night earnings call, TiVo *Tom Rogers* said a court's recent granting of DISH's request for an en banc review (*Cfax*, 5/17) doesn't question the validity of either TiVo's patents or previous arguments, but rather seeks to further clarify patent law proceedings. "From a policy standpoint, our case becomes even more compelling, and we are confident we are going to win here," said Rogers. Irrespective of the en banc review's thrust, **Wells Fargo Securities'** *Marci Ryvicker* said it "evens the playing field just a little bit and could result in a licensing fee below the Street's \$3/sub/month expectation," leaving her a buyer of DISH stock, particularly at current levels. Rogers also addressed the over-the-top conundrum, noting that "if cable falls behind... what the marketplace has the ability to deliver... people won't have trouble going elsewhere." From DirecTV's own competitive standpoint, pres/CEO *Mike White* said "innovation will continue to grow the business... we have to bring new products to consumers." The DBS op seeks sub loyalty through near-term plans for multi-room DVR functionality, a re-launch of its movies on demand offering and an iPad app for **NFL Sunday Ticket**. "Video—any time, anywhere—that's what we're focused on," said White. Cable ops, of course, have been working diligently on innovative content delivery modes, and Comcast CFO *Michael Angelakis* said that drive permeates virtually all the MSO's tech decisions. "I think that when we think about it— we started with **NBCU**," said Angelakis. "We talked about All-Digital and wideband. This is all about, how do we provide a better service to our customers? How do we provide better choice, better options, however [customers] want to utilize our services?"

Kohl's Conditions: Sen Antitrust subcmte chmn *Herb Kohl* (D-WI) wants tough conditions on a **Comcast-NBCU** jv, including the divesture of NBCU's stake in online video site **Hulu** within 1 year and a promise not to require consumers to have a cable subscription to access NBC programming online. In a letter Wed to the **DOJ** and **FCC**, Kohl said his subcmte

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Starts Memorial Day

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sees the potential for serious anticompetitive and anti-consumer effects in at least 3 respects: competitor access to NBC broadcast and cable content; the ability for independent programmers to gain carriage; and the impact on online distribution. Comcast responded Wed, saying the jv proposal is pro-competitive and in the public interest as it will “enhance the entertainment experience through bold innovation and expanding consumer choice. We expect a thorough and expeditious regulatory review and that any conditions will not unduly burden either Comcast or NBCU’s businesses.” Other non-Hulu related recommendations by Kohl include a requirement that Comcast make any programming in which it has a financial interest available via Internet distribution to its competitors on reasonable and nondiscriminatory terms, commitments by Comcast to make any programming it has an interest in available to any MVPD on reasonable terms (which would preclude it from using the so-called terrestrial loophole), a requirement to enter into binding commercial arbitration for retrans disputes with a standstill provision, and a requirement that a cable subscription not be needed to view NBC content.

Fox Shuffle: A big reorg over at **Fox Sports** sees **DirecTV** evp, ent **Eric Shanks** join as pres, Fox Sports, effective June 1. At 38, he is believed to be the youngest president of a broadcast network sports division ever. Current pres **Ed Goren** becomes vice chmn, **Fox Sports Media**. Both will report to Fox Sports Media chmn/CEO **David Hill**. Shanks is no stranger to Fox, having joined Fox Sports in '94 as a broadcast associate; he eventually became vp, enhanced programming for Fox TV Networks. DirecTV said it will announce succession plans for Shanks in the coming weeks.

Northern Exposure: Following a successful Beta phase, **Rogers Comm** officially launched in Canada its own TV Everywhere concept, **Rogers On Demand Online**. It now offers more than 1,500 hours of content and 30 partners such as **World Fishing Net**, plus new community and social tools, live streaming capabilities and improved functionality.

Carriage: **Sportsman Channel** earned a launch on **Comcast's XFinity TV** in Atlanta. -- **Smithsonian Networks** gm **Tom Hayden** expects the net to be “fully distributed” by year’s end. “We’re talking with **Comcast**” and other distributors toward that goal, he said during a reception Tues at **NCTA** for the net’s Memorial Day original “Uncommon Courage: Breakout at Choisin.” The jv between Showtime and The Smithsonian Institution launched in '07.

Online: **Hillcrest Labs** bowed the latest version of **Kylo**, its free Web browser for the TV, with a workaround for users to access **Hulu**, which had blocked its content from **Kylo**. “We fully respect the rights of content owners and aggregators, and as such, we do not deep link, re-index, divert users past ads, or overlay different user interfaces on video players,” said Hillcrest CEO **Dan Simpkins**. “Our hope is that a respectful dialog with **Hulu** will encourage them to consider changing their policies.”

Crime Blotter: **CNBC** reported Wed that **FBI** agents had arrested **Bonnie Hoxie**, sec to the head of **Disney's** corporate comm, and boyfriend **Yonni Sebbag** on charges that they tried to sell inside information about the company, including a claim that Disney was in serious talks to sell **ABC**. Disney said it was fully cooperating with the investigation and that the “reference in the complaint to conversations regarding the ABC Network were and are false.”

Programming: **Lionsgate** licensed 139 theatrical titles to **Rainbow Media** for air on **IFC**, **Sundance**, **AMC** and **WE tv**, including “Crash,” “Precious” and “Monster’s Ball.” -- **ABC Family** picked up the rights to original **NBC** series “Friday Night Lights” for tentative air beginning in Sept. -- **Military Channel** and **The American Legion** have teamed to feature “American Heroes,” a series of 10, 1min vignettes honoring troops who served in Iraq and Afghanistan, on the net beginning Mon. -- **BBC America** is launching a US production of cooking show “Come Dine With Me,” set to premiere in early '11. The

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BUSINESS & FINANCE

US version will also broadcast to intl audiences via BBC Worldwide's channels. The UK version, which features amateur chefs vying for the title of ultimate dinner party host, begins running on BBCA July 7. -- **Style** bows "Too Fat for 15: Fighting Back," following teens at a weight loss boarding school, Aug. -- **VH1** renewed "Brandy & Ray J: A Family Business," "Basketball Wives" and "What Chilli Wants" for 2nd seasons. -- **Fox Business** debuts a new daytime show hosted by *Gerri Willis*, June 7. "The Willis Report" will air weekdays at 5pm ET. It takes the place of "Happy Hour," which ends its run June 4. -- **Investigation Discovery** acquired rights to indie film "Cropsey," about the urban legend boogeyman, and will premiere it Aug 11, 9pm ET.

Advertising: TBS will team with **Toyota** for original series "Are We There Yet?," which will integrate the Toyota Highlander into the storyline of select episodes (premieres June 2, 9pm).

Public Affairs: Another nice tradition linked to Memorial Day—**History** again will start alerting schools and local cable ops about the 4th annual "Take a Veteran to School Day" effort, set for on/about Nov 11, Veteran's Day (*Cfax*, 5/29/09). Last year, some 2500 schools in all 50 states and Puerto Rico saluted veterans by exposing students to their life stories. History also is touting its Thank a Veteran at Work how-to Website and America's VetDogs and Wounded Warrior Project (www.veterans.com).

CableFAX Daily Stockwatch

Company	05/26 Close	1-Day Ch	Company	05/26 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	37.12	(0.19)	APPLE:	244.11	(1.11)
DISH:	20.85	0.03	ARRIS GROUP:	10.73	(0.23)
DISNEY:	33.07	0.75	AVID TECH:	13.37	(0.06)
GE:	16.01	0.06	BIGBAND:	2.86	0.05
NEWS CORP:	14.92	0.03	BLNDER TONGUE:	1.29	(0.01)
MSOS					
CABLEVISION:	24.38	0.48	BROADCOM:	32.32	(0.01)
COMCAST:	17.72	0.05	CISCO:	22.89	(0.42)
COMCAST SPCL:	17.02	0.16	CLEARWIRE:	8.02	0.11
GCI:	5.77	0.04	COMMSCOPE:	27.56	0.30
KNOLOGY:	11.88	(0.06)	CONCURRENT:	5.32	0.07
LIBERTY CAPITAL:	40.22	0.12	CONVERGYS:	10.72	(0.08)
LIBERTY GLOBAL:	24.37	0.18	CSG SYSTEMS:	20.05	(0.05)
LIBERTY INT:	12.65	0.29	ECHOSTAR:	20.23	0.93
MEDIACOM:	5.13	0.02	GOOGLE:	475.47	(1.6)
RCN:	14.30	0.00	HARMONIC:	5.65	0.06
SHAW COMM:	17.91	(0.02)	INTEL:	20.70	(0.15)
TIME WARNER CABLE:	52.93	1.24	JDSU:	10.94	(0.09)
VIRGIN MEDIA:	15.69	0.23	LEVEL 3:	1.26	0.01
WASH POST:	478.03	8.66	MICROSOFT:	25.01	(1.06)
PROGRAMMING					
CBS:	14.16	0.27	MOTOROLA:	6.76	0.01
CROWN:	1.79	(0.04)	PHILIPS:	28.63	(0.12)
DISCOVERY:	37.23	0.77	RENTRAK:	23.57	(0.09)
GRUPO TELEVISIA:	18.20	0.25	SEACHANGE:	7.53	(0.29)
HSN:	25.73	(0.7)	SONY:	30.39	(0.51)
INTERACTIVE CORP:	22.57	(0.04)	SPRINT NEXTEL:	4.91	(0.38)
LIBERTY:	31.48	(0.01)	THOMAS & BETTS:	37.99	0.25
LIBERTY STARZ:	50.79	0.32	TIVO:	8.88	(0.27)
LIONSGATE:	6.75	0.00	TOLLGRADE:	6.41	0.04
LODGENET:	5.06	(0.11)	UNIVERSAL ELEC:	18.67	0.22
NEW FRONTIER:	1.85	0.00	VONAGE:	1.94	0.01
OUTDOOR:	5.87	(0.1)	YAHOO:	15.45	0.14
PLAYBOY:	3.70	0.12	TELCOS		
RHI:	0.21	(0.02)	AT&T:	24.13	(0.19)
SCRIPPS INT:	45.08	1.09	QWEST:	5.17	0.08
TIME WARNER:	29.53	(0.04)	VERIZON:	26.93	(0.47)
VALUEVISION:	2.25	0.04	MARKET INDICES		
VIACOM:	36.12	0.28	DOW:	9974.45	(69.3)
WWE:	16.28	0.27	NASDAQ:	2195.88	(15.07)
TECHNOLOGY					
ADC:	8.31	0.10			
ADDVANTAGE:	2.81	0.04			
ALCATEL LUCENT:	2.36	(0.09)			
AMDPCS:	28.43	(0.74)			
AMPHENOL:	41.22	(0.32)			
AOL:	20.72	0.04			

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Think about that for a minute...

Looking Forward

Facebook just announced a new design for its privacy controls yesterday. The reason was clear; folks had gotten very concerned about how the data collected by that company on its dominant social networking site was being used.

Google received all sorts of publicity it didn't want, and several investigations are now under way about its collection and use of data.

Just two examples of the growing concern over how information is collected and distributed (or restricted and blocked) on broadband Internet. Both front-page news, neither within the jurisdiction of the FCC. And therein lies the rub, as they say.



Steve Effros

While the FCC struggles to figure out a way to try to claim authority to regulate only limited portions of broadband—the transport “ISP” side—the rest of the Internet ecosystem is

running full speed ahead in just about every direction you can think of. Regulating, or at least setting rules for the road on just one part of the ecosystem simply won't work. It's like trying to control your weight by sticking to a healthy diet, but only at breakfast.

It would appear that some of the key folks in Congress are finally appreciating that fact, and have suggested that they are going to start working on a broad new effort at a telecommunications law rewrite. That makes all sorts of sense. It has the potential to be forward looking, instead of the current situation where the Commission is groping around for ways to find regulatory hooks for the few things it may be able to do and acknowledging that others, like dealing with the applications mentioned above, are simply out of reach.

It's time to look not only at the whole ecosystem, but also at the underlying question of how and what can and should

be done about it. Let's face it, for all the fears and concerns, in the main the development of the Internet and broadband has been remarkably successful. The last thing anyone should want to do, especially in the tenuous economy we currently have, is to tarnish one of the few bright spots.

But that's not to say there shouldn't be some oversight, some “rules of the road” put in place and some mechanism for redress if things go wrong. There should. But it should be modeled in legislation that looks forward and anticipates the needs without creating government mandated regulations or structures to force development in a pre-determined path. We don't know what that path should be, nor does the government.

So the idea of taking a fresh look is a good one. It won't happen overnight, but it doesn't need to. Sunlight seems to have worked very well dealing with the rough spots that have appeared to date. Network management issues have been aired and modified, privacy concerns have led to increased public awareness and new tools. All of this has happened without major regulatory structures.

That may be something to consider in any re-write: a government or industry model of dealing with complaints and problems as they arise, rather than the current FCC model of pre-determined regulations that attempt to place telecommunications media in various inflexible modes.

I don't think anyone knows all the answers to this, but attempting to fit our new telecommunications reality into old FCC structures is the wrong way to go. What key Congressional leaders are now suggesting is a forward looking approach, and it's a welcome change. They, too, start from the premise that they don't know. That's a major advance.

Steve

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