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Retrans Rumba: FCC Has Full Retrans Dance Card to Read

Retrans reform comments trickled in to the **FCC** Fri, the deadline for filing comments on the Commission's NPRM. Here's a sampling of what the Commission must wade through. **Charter**: One of several MVPDs signing the joint petition that triggered the proceeding, Charter told the FCC that it needs to broaden its focus beyond viewer disruption and impose meaningful restraints on "rapidly increasing" retrans consent fees. "Charter is particularly concerned that the NPRM sidesteps the issue of escalating retransmission consent fees but spends 2 pages discussing possible changes to the subscriber notification requirements," the MSO said in its filing. "There is nothing in the record suggesting widespread notification violations…" **DirecTV**: With the Commission considering eliminating network nonduplication and syndicated exclusivity rules, DirecTV urged the FCC to also extend comparable relief to satellite operators since those rules apply mainly to cable. Specifically, it wants the FCC to make it a violation of the good faith negotiation requirement for a broadcaster to withhold retrans consent from a satellite carrier without granting a temporary waiver permitting the importation of same-network distant signals through the market until a carriage agreement is reached. DirecTV believes giving networks the right to negotiate or approve retrans for a station is also a violation of good faith, as is refusing to give a stand-alone offer for retrans when requested. **Writers Guild of America, West**: The labor group does not believe retrans consent rules are broken and argued that the changes proposed by MVPDs would enhance their market power. It does not believe the FCC should view a broadcast station giving a network the right to approve its retrans deal as a violation of good faith negotiations. Similarly it sees no problem with joint retrans negotiations by stations that are not commonly owned. **Public Knowledge and New America Foundation**: The groups believe the FCC has more authority than it's willing to acknowledge, saying it should impose interim carriage or mandatory arbitration in cases of deadlocked negotiations. Arbitration was suggested in the MVPD petition that was led by Time Warner Cable. The groups complained that the Commission has shied away from meaningful enforcement of the existing rules, noting that after finding violations in 1 instance, it "merely required the parties to resume negotiations within 10 days and report on the status of the negotiation every 30 days." **Bright House**: Its list of suggestions for the FCC included prohibiting broadcasters from terminating retrans consent less than 30 days prior to a major programming event. **Allbritton**: In comments supplementing **NAB**'s assertion that the FCC lacks authority to mandate carriage or force arbitration, Allbritton complained about "bad faith tactics" of MVPDs. It said one distributor directed subs to personal email accounts and flooded personal voicemail accounts to "impose maximum pain" during negotiations, while another filed a "frivolous antitrust lawsuit" with the intent of forcing more favorable terms. "We agree that, in these rare situations, the Commission should act to enforce its existing rules within no more than a few days," the broadcaster said. "Yet, because the Commission either ignores or takes months to act on complaints demonstrating bad faith tactics, turning to the Commission for relief in the cases outlined… would have been a costly and largely fruitless undertaking on our part." **Time Warner Cable:** Time Warner Cable, which led the petition for FCC Reform, said the preferred retrans solution would

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be for Congress to enact legislation that eliminates the "artificial" retrans consent construct as well as must-carry obligations, buy-through requirements, tier-placement and other measures. But unless and until such legislation is enacted, it wants the FCC to step up and "mitigate the harm" caused by the current regime. It believes, among other things, the FCC should halt multicasting multiple network affiliate stations over a common signal and explore rate setting.

Neighborly Disagreement: **Bloomberg** said it has told **Comcast** that it will file a complaint with the **FCC** if the MSO doesn't stop ignoring a condition in the Comcast-NBCU order that Bloomberg says requires inclusion of independent news channels like Bloomberg TV in any news or business news neighborhoods in Comcast channel lineups. Comcast claims Bloomberg misreads the neighborhooding condition, saying it doesn't neighborhood news channels in the way Bloomberg seeks to be repositioned and that it has not repositioned any channels to favor CNBC or any other affiliated news channel. "If Comcast continues to thumb its nose at the FCC's order, Bloomberg will take its case to the Commission and ask that it enforce the conditions it attached to approval of Comcast's acquisition of NBC-Universal," said Bloomberg chmn *Peter Grauer*. Comcast's 2 cents: If Bloomberg gets its way, "millions of customers will be subject to disruption and confusion required by massive channel realignments across the country, all to benefit an already thriving, $30bln media company."

We Messed Up: What to do when a comedian takes out full-page ads in the *New York Press* and other pubs to blast your customer service? If you're **Time Warner Cable**, you own up to it. "I really wish that this hadn't happened, and I really wish it never happened, but we can't hide from the truth: this is neither the first nor the last time that we've miscommunicated with a customer, inconvenienced them tremendously, and screwed up what appears to be a very simple task. I'm sorry this happened, and I'm sorry every single time it happens," TWC's digital media dir *Jeff Simmermon* wrote on a blog post Thurs. Mirman, who has had some bit roles on "Flight of the Conchords," penned a letter that wishes various plagues on TWC board members (including that every member's cell phone ring announces their weight and the day they'll die). Simmermon's post goes on to compliment Mirman's humor and describe how TWC is working to overhaul customer care.

At the Portals: The **FCC** clarified incumbent carriers' obligation to negotiate with new market entrants—even rural carriers exempt from certain interconnection rights. The declaratory ruling came in after **Time Warner Cable** and **CRC Comm of Maine** brought their dispute with the **Maine PUC** to the Commission. -- The **ACA** is asking the **FCC** to clarify that new video description rules will apply only to cable systems that serve 50K+ subs. This is all part of the 21st Century Communications and Video Accessibility Act, which mandates brief narration to video programming for the benefit of the blind and visually impaired. ACA is also seeking an exemption for cable systems that are not technically capable or providing a 3rd audio stream to accommodate the descriptions. Many of its members provide analog broadcast service by converting the digital signal to analog subs, occupying 2 audio streams. Legacy set-tops can't provide more than 2 audio channels to subs.

People: *Ryan Sharkey* was upped to svp, program acquisitions and admin for **USA**, **Sleuth** and **Universal HD**.

Business/Finance: Shares of **SeaChange** jumped 11.83% Fri and **Arris** shares rose 1.53% in response to a *WSJ* item late Thurs saying Arris is in talks to purchase SeaChange. In a Fri release, SeaChange chmn/CEO *William Styslinger* didn't confirm anything but said the company's previously announced independent advisory cmte "is continuing to evaluate a range of strategic options for the Company."

Editor's Note: Your next issue of ***CableFAX Daily*** will arrive Tues evening due to the Memorial Day holiday.

CableFAX Week in Review

Company	Ticker	5/27 Close	1-Week % Chg	YTD %Chg
BROADCASTERS/DBS/MMDS				
DIRECTV:	DTV	49.93	(0.26%)	49.72%
DISH:	DISH	30.13	2.20%	45.06%
DISNEY:	DIS	41.52	0.05%	28.74%
GE:	GE	19.44	(0.92%)	28.49%
NEWS CORP:	NWS	18.61	1.03%	16.90%
MSOS				
CABLEVISION:	CVC	34.90	1.16%	35.17%
CHARTER:	CHTR	56.23	(1.35%)	0.00%
COMCAST:	CMCSA	24.89	(0.92%)	47.63%
COMCAST SPCL:	CMCSK	23.43	(1.18%)	46.35%
GCI:	GNCMA	12.18	7.31%	90.91%
KNOLOGY:	KNOL	15.28	1.46%	39.92%
LIBERTY CAPITAL:	LCAPA	91.14	4.16%	281.66%
LIBERTY GLOBAL:	LBTYA	44.98	0.36%	105.48%
LIBERTY INT:	LINTA	18.05	1.98%	66.51%
SHAW COMM:	SJR	21.03	(0.66%)	2.24%
TIME WARNER CABLE:	TWC	77.29	(0.9%)	86.74%
VIRGIN MEDIA:	VMED	32.18	(0.34%)	91.21%
WASH POST:	WPO	414.00	(0.64%)	(5.82%)
PROGRAMMING				
CBS:	CBS	27.98	3.67%	99.15%
CROWN:	CRWN	2.00	(7.41%)	37.93%
DISCOVERY:	DISCA	43.71	(2.28%)	42.52%
GRUPO TELEVISA:	TV	23.63	0.30%	13.82%
HSN:	HSNI	34.06	5.22%	68.70%
INTERACTIVE CORP:	IACI	35.22	(2.06%)	71.97%
LIBERTY:	L	41.84	0.24%	15.10%
LIBERTY STARZ:	LSTZA	77.72	3.65%	68.41%
LIONSGATE:	LGF	5.94	(0.5%)	2.24%
LODGENET:	LNET	3.57	11.91%	(35.44%)
NEW FRONTIER:	NOOF	1.51	(9.58%)	(20.11%)
OUTDOOR:	OUTD	6.05	(9.3%)	4.31%
SCRIPPS INT:	SNI	50.18	0.40%	20.92%
TIME WARNER:	TWX	36.12	(1.82%)	23.95%
VALUEVISION:	VVTV	6.93	4.52%	44.38%
VIACOM:	VIA	59.86	(1.03%)	90.03%
WWE:	WWE	10.38	0.58%	(32.29%)
TECHNOLOGY				
ADDVANTAGE:	AEY	2.73	0.74%	38.58%
ALCATEL LUCENT:	ALU	5.65	(2.59%)	70.18%
AMDOCS:	DOX	30.32	0.73%	6.27%
AMPHENOL:	APH	53.89	(1.39%)	16.70%
AOL:	AOL	20.15	3.23%	(13.45%)
APPLE:	AAPL	337.41	0.65%	60.11%
ARRIS GROUP:	ARRS	11.27	5.03%	(1.4%)
AVID TECH:	AVID	17.01	(0.06%)	33.31%
BIGBAND:	BBND	2.13	(6.17%)	(38.08%)
BLNDER TONGUE:	BDR	1.80	(2.17%)	57.89%
BROADCOM:	BRCM	36.52	8.98%	16.05%
CISCO:	CSCO	16.46	(0.42%)	(31.24%)
CLEARWIRE:	CLWR	4.56	0.88%	(32.54%)
CONCURRENT:	CCUR	6.20	2.65%	56.57%
CONVERGYS:	CVG	12.89	(2.86%)	19.91%
CSG SYSTEMS:	CSGS	18.86	(1.67%)	(1.2%)
ECHOSTAR:	SATS	33.17	(0.81%)	64.70%
GOOGLE:	GOOG	520.90	(0.6%)	(15.98%)
HARMONIC:	HLIT	7.76	2.65%	22.78%
INTEL:	INTC	22.21	(4.35%)	8.87%
JDSU:	JDSU	20.04	(1.38%)	142.91%
LEVEL 3:	LVLT	2.33	18.62%	51.96%
MICROSOFT:	MSFT	24.76	1.10%	(18.77%)
RENTRAK:	RENT	19.93	(2.4%)	12.79%
SEACHANGE:	SEAC	11.06	13.09%	68.60%
SONY:	SNE	26.85	(0.74%)	(7.41%)
SPRINT NEXTEL:	S	5.85	6.95%	59.84%
THOMAS & BETTS:	TNB	54.43	(0.87%)	52.08%
TIVO:	TIVO	10.37	9.50%	1.87%
UNIVERSAL ELEC:	UEIC	25.01	(3.17%)	7.71%
VONAGE:	VG	4.67	(0.43%)	233.57%
YAHOO:	YHOO	16.02	(14.1%)	(4.53%)
TELCOS				
AT&T:	T	31.29	(0.1%)	11.63%
VERIZON:	VZ	36.67	(1.29%)	10.69%
MARKET INDICES				
DOW:	DJI	12441.58	(0.56%)	19.31%
NASDAQ:	IXIC	2796.86	(0.23%)	23.26%
S&P 500:	GSPC	1331.10	(0.16%)	16.28%

WINNERS & LOSERS

THIS WEEK'S STOCK PRICE WINNERS

COMPANY	CLOSE	1-WK CH
1. LEVEL 3:	2.33	18.62%
2. SEACHANGE:	11.06	13.09%
3. LODGENET:	3.57	11.91%
4. TIVO:	10.37	9.50%
5. BROADCOM:	36.52	8.98%

THIS WEEK'S STOCK PRICE LOSERS

COMPANY	CLOSE	1-WK CH
1. YAHOO:	16.02	(14.1%)
2. NEW FRONTIER:	1.51	(9.58%)
3. OUTDOOR:	6.05	(9.3%)
4. CROWN:	2.00	(7.41%)
5. BIGBAND:	2.13	(6.17%)

EYE ON ADVERTISING

Quality Over Quantity

As we meander through upfront season, contributor Cathy Applefeld Olson talks with Lee Smith, CEO at ***Ad-ology Research****, about trends in advertising dollars earmarked for cable. A Sales Development Services company—and sister to local media sales development system* ***AdMall****, Ad-ology provides research to ad agencies, corporate and brand marketers and cable distributors.*

What key factors guide your agency clients' decisions about where to put their ad dollars?

LS: Our clients are moving toward behavioral targeting. We are seeing a move in interest away from demographics and toward psychographics. We can line 100 men ages 18-25 against a wall and most will have different things that excite them, different interests. That's what we are hearing a lot about.

Based on your research, is cable poised to benefit from the upswing in the economy?

LS: What we are hearing is, "We want to get down to the niche—the behavioral targeting, the psychographic targeting." What's the television platform that does that? It's cable. It's not so much about what the quantity of the audience is, it's about the quality of the audience.

Can you sum up feedback from Ad-ology's Local Advertising Sales Forecast in Jan?

LS: We surveyed 409 cable MSO sales managers as well as account executives at the local level. They were all optimistic about the year ahead. Retail was the third-largest growth area they projected, but it was a distant third behind health care and automotive.

Ad-ology this spring surveyed about 1,700 consumers planning to buy an automobile in the next 12 months. What did you discover about their viewing habits?

LS: Automotive advertising is such a critical component to cable and other industries. We wanted to do a deep survey of people who intended to buy new or used vehicle in next 10-12 months. One of the things we asked was whether they were interested in sports, and if so, what were the top five networks they went to for sports. Not surprisingly, ESPN and ESPN 2 ran away with the category—so they stand to benefit the most from the rebound of the automotive industry. The No. 2 network was the NFL Network, not the regional sports networks, which would have been my guess.

You also surveyed this niche's favorite news/entertainment networks.

LS: The top five were: TNT, Discovery, Fox News, USA Network and History Channel. The Turner networks, in particular, have become very popular. TBS ranked right up there as well. These are the favorite networks of people in the market for a new or used automobile, so this is where the marketing ad dollars are going to go.

Where do you see new areas of ad growth for cable networks?

LS: The food category is really taking off, if you look at the Food Network, Cooking Channel, and the addition of food programming on other networks. But the big one that we are seeing is health care. We asked American consumers what types of information they are interested in getting, and certainly news, weather and sports are up there, but also performing very strongly is information on health care and wellness. And just as food programming is infiltrating travel networks like the Travel Channel, I expect to see health and wellness infiltrate more mainstream networks. That's what the audiences want to see, and there will be a lot of ad dollars from the health care industry looking for an audience.

(Longtime entertainment industry reporter Cathy Applefeld Olson is delighted to be documenting media's wild ride into the 21st century).