

CableFAX Daily™

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What the Industry Reads First

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Playing Ball: Cox Opens Up Padres Ahead of FCC Rules

Cox fought long and hard over the years to withhold its **Cox-4 San Diego** programming (and its Padres baseball games) from competitors, but the MSO recently changed course and tapped **Fox Networks** to handle negotiating contracts with rivals like **AT&T**. A spokesman chalked up the decision to expected FCC rule changes and also called it a “business decision.” The Commission voted back in Jan to narrow the so-called terrestrial loophole that allows Cox and other cable ops to withhold terrestrially delivered networks by allowing competitors to file complaints at the FCC when they are denied terrestrial sports programming. Six months later and the 3 rules surrounding the complaint process still have not taken effect, as they’ve been awaiting vetting by the Office of Mgmt and Budget. Multiple sources said OMB has now approved the rules. The next step will be for the FCC to send them to the Federal Register, and they will take effect immediately upon their publication there (that could happen within the next week or so). **Cablevision**, whose **MSG HD** signal would be impacted, has already asked the **US Court of Appeals for the DC Circuit** to review the FCC decision (*Cfax*, 4/13). Earlier this month, **NCTA** filed in support of Cablevision. **Comcast** also has a stake in this since it withholds **Comcast Sports Net Philly** from **DirectTV** and **DISH**, but look for it to lay low given the ongoing review of its proposed **NBCU** transaction. Comcast has said it has no plans to challenge the rules and will address any complaints if and when they are filed, noting that it has almost no terrestrially delivered content outside of CSN Philly. Before the new rules, the FCC Media Bureau denied a complaint by AT&T against Cox over Cox-4 San Diego. The telco had wanted the FCC to revisit the issue in light of its Jan decision. “The FCC’s order was very helpful along with their willingness to convene a meeting to get all parties together. We are now in negotiations with Cox and are hopeful that this issue can be resolved so our customers can enjoy the baseball season and cheer for the home team,” said **Bob Quinn**, AT&T svp, federal regulatory matters. Cox has also reached out to **DirectTV** and **DISH**, but has announced no deals yet. While Cox will make the entire feed (which is in HD) available to competitors, it won’t offer up its own differentiating content, such as online streamed Padres games for Cox HD customers, VOD content and its **Padres Zone** channel, which features 6 camera angles for Padres home games.

FCC on Deck: Lawmakers continue to weigh in on whether the **FCC** should pursue the chmn’s so-called “Third Way” approach to broadband classification, while industry stakeholders continue to push for targeted legislation to help clarify the

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FCC's authority to implement the National Broadband Plan. **NCTA's Kyle McStarow**, **Verizon's Tom Tauke** and **AT&T's Jim Cicconi** are among those who have met with Genachowski's chief of staff and chief counsel to push the idea, according to FCC filings. Reps **Ed Markey** (D-MA), **Anna Eshoo** (D-CA), **Mike Doyle** (D-PA) and **Doris Matsui** (D-CA) are the latest Dems to express their support of the Third Way plan. In a letter Wed to FCC chmn Julius Genachowski, the foursome called it a "tailored, commonsense path forward." The Commission is slated to vote on an NOI for broadband classification at Thurs' open meeting. Actual rules could be adopted around Oct, though a legal challenge would be a sure bet.

Online: **Epix** bowed for **Cox** and **Mediacom** subs its **EpixHD.com** platform now replete with authentication tech. **Charter** customers will receive the service next month. All 3 MSOs agreed to offer free previews of the online play, which features access to all the net's linear and SVOD content including more than 150 HD/SD movies each month. The net continues to view EpixHD.com as an attractive value add for consumers and key competitive differentiator, and recently released survey results finding that regular users of VOD and online platforms ranked multiplatform content availability as the 2nd most valued programming feature behind HD.

Broadband: The **TX Cable Assoc** is the latest to charge that the federal govt put the cart before the horse with its broadband stimulus program. It pointed to a newly released TX broadband map showing that less than 1% of all Texans can't access some form of broadband, whether it's wired, wireless or mobile. "Yet—without this information—the federal government awarded more than \$200mln in grants and loans to projects in Texas. Some of these projects propose to duplicate service in an area already served by multiple broadband providers," the state assoc said Wed. Meanwhile, 22 Sen Dems, led by **Herb Kohl** (D-WI), sent a letter to the **FCC** last week questioning some of the proposals in the National Broadband Plan and suggesting they could create a greater digital divide. They specifically pointed to plans for 100Mbps for 100mln homes, while at the same time transitioning USF to support broadband offerings of 4Mbps.

In the States: **Comcast** plans to begin deploying switched digital video later this year in a limited number of systems, and more broadly in '11 and '12, the MSO said in an **FCC** filing. It said it anticipates the tech will result in the launch of at least 50 additional HD channels, bringing the total number of HD nets in these systems to 150+. -- **T-Mobile** expanded the availability of its mobile broadband network to include more than 25 major metro areas including L.A., Dallas and Atlanta. The co expects to deliver HSPA+ speeds in 100 markets covering 185mln people by the end of the year. **IDC** estimates there will be 30.2mln US mobile broadband subs by '14, up from 6.5mln in '09.

Research: Total rev at RSNs increased 9% last year to \$4.6bln, outperforming the 4.8% total rev growth of basic and HD cable nets, according to **SNL Kagan**. Excluding **Fox Sports TN** and **Carolinas**, **Comcast SportsNet Washington** achieved the greatest rev growth (+19.7% to \$128mln) and was followed by **CSN New England** (+15.1% to \$90.5mln). **YES** led in overall rev with \$417.1mln, ahead of **MSG's** \$308.8mln. Ad rev for RSNs fell 6% last year but affil rev increased 9%, leaving all RSNs to achieve positive rev growth, albeit at a more modest rate than both '07 and '08. -- According to SNL Kagan, broadcast retrans fees are expected to top \$1bln in '10 and surpass \$2.5bln by '16.

Cup Kicks: The **World Cup** is already delivering handsome linear returns for cable nets **ESPN** and **Univision**, and now data from the former shows that its multiplatform offerings are scoring well too. Through the initial 8 matches, viewers who consumed the World Cup on TV and other platforms averaged more than 5 hours of daily usage—versus approx 94min for TV only viewers—and 11% of **ESPN/ABC's** audience consumed the Cup solely on a non-TV platform, marking an incremental audience lift of 13%. Of all **ESPN/ABC** Cup viewers, 89% used TV, 31% the Web, 8% radio and 6% mobile.

Advertising: The **Rovi Ad Network** bowed Wed enabling marketers to launch, manage and measure campaigns across Rovi's TV guides and interactive platforms currently in approx 16mln US homes. When combined with distribution of Rovi tech through 3rd parties, the network reaches more than 30mln North American homes.

Net Neutrality: Implementation of the **FCC's** proposed net neutrality regulations could result in widespread job loss and GDP reduction of \$80bln annually, according to research from **Charles Davidson**, dir, **The Advanced Communications Law & Policy Institute** at **New York Law School** and **Entropy Economics** pres **Bret Swanson**. As broadband service providers are expected to invest at least \$30bln/yr in new fiber optic and wireless networks from '10-'15, said the pair, a 10% decrease in investment—purportedly due to fewer incentives with net neutrality regs—would lead to 502K lost jobs across the broadband ecosystem and \$62bln in annual GDP losses. "With the U.S. economy still in a fragile state, impos-

BUSINESS & FINANCE

ing restrictive regulation on one of the country's most dynamic sectors is misguided," said Davidson.

Programming: UK series "Queer as Folk" premieres Sun on **Ovation**, part of the net's "Art Out Loud" programming stunt that looks at the influence of LGBT culture on film, literature, performance art and TV.

On the Circuit: **SCTE** is creating a new technical subcmte within its **Standards Program** to dev standards and recommended practices for energy mgmt and related topics such as minimizing disposal effects of outdated equipment. A Sept subcmte meeting seeks to establish projects and associated work groups. Info at **SCTE.org**.

People: **Comcast Ent Group** named *Amelia Stewart* vp, media relations and corp comm. -- **GE** elected **Loews** CEO *James Tisch* a board member.

Business/Finance: **Citi** maintained its 'buy' rating and \$18 price target on **News Corp** shares, saying the co's intention to swallow **BSkyB** whole removes a significant overhang on the shares. -- According to reports, *Carl Icahn* acquired 12.5% of **Lionsgate** shares through his \$7/share tender offer that expired Wed, upping his overall stake in the co to approx 31%. See tomorrow's issue for more info. -- **BroadSoft**, a provider of software enabling IP-based voice and multimedia service, opened public trading Wed on **NASDAQ**, falling 7.8% to close at \$8.30.

CableFAX Daily Stockwatch

Company	06/16 Close	1-Day Ch	Company	06/16 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	39.33	0.08	ARRIS GROUP:	11.00	(0.22)
DISH:	21.61	(0.15)	AVID TECH:	13.32	(0.05)
DISNEY:	34.79	(0.2)	BIGBAND:	2.86	(0.04)
GE:	15.85	0.07	BLNDER TONGUE:	1.40	0.05
NEWS CORP:	16.10	(0.4)	BROADCOM:	36.19	0.35
MSOS					
CABLEVISION:	25.23	0.08	CISCO:	23.29	(0.04)
COMCAST:	18.38	(0.27)	CLEARWIRE:	7.82	(0.07)
COMCAST SPCL:	17.42	(0.27)	COMMSCOPE:	26.04	(0.6)
GCI:	6.61	0.05	CONCURRENT:	5.00	(0.03)
KNOLOGY:	11.76	0.08	CONVERGYS:	10.49	0.02
LIBERTY CAPITAL:	42.88	0.45	CSG SYSTEMS:	19.85	(0.08)
LIBERTY GLOBAL:	26.12	(0.22)	ECHOSTAR:	21.35	0.01
LIBERTY INT:	13.00	(0.29)	GOOGLE:	501.27	3.28
MEDIACOM:	6.96	(0.02)	HARMONIC:	5.82	(0.05)
RCN:	14.76	(0.03)	INTEL:	21.49	0.01
SHAW COMM:	19.65	(0.03)	JDSU:	11.69	0.01
TIME WARNER CABLE:	55.56	0.45	LEVEL 3:	1.29	0.08
VIRGIN MEDIA:	17.39	0.11	MICROSOFT:	26.32	(0.26)
WASH POST:	458.19	0.37	MOTOROLA:	7.11	0.05
PROGRAMMING					
CBS:	15.16	(0.21)	RENTRAK:	24.36	(0.1)
CROWN:	1.78	(0.02)	SEACHANGE:	8.53	(0.16)
DISCOVERY:	39.17	(0.36)	SONY:	28.33	(0.56)
GRUPO TELEVISIA:	18.80	(0.14)	SPRINT NEXTEL:	4.79	(0.11)
HSN:	25.36	(0.69)	THOMAS & BETTS:	39.70	(0.16)
INTERACTIVE CORP:	23.49	0.00	TIVO:	8.43	(0.01)
LIBERTY:	33.69	0.04	TOLLGRADE:	6.48	(0.03)
LIBERTY STARZ:	52.98	0.36	UNIVERSAL ELEC:	19.30	(0.3)
LIONSGATE:	6.93	(0.06)	VONAGE:	2.38	(0.09)
LODGENET:	4.51	0.08	YAHOO:	15.49	(0.16)
NEW FRONTIER:	1.75	(0.02)	TELCOS		
OUTDOOR:	5.37	(0.06)	AT&T:	25.52	(0.02)
PLAYBOY:	3.87	(0.03)	QWEST:	5.36	0.00
SCRIPPS INT:	45.18	(0.59)	VERIZON:	29.18	0.07
TIME WARNER:	32.80	(0.2)	MARKET INDICES		
VALUEVISION:	2.04	0.14	DOW:	10409.46	4.69
VIACOM:	39.30	0.17	NASDAQ:	2305.93	0.05
WWE:	16.38	0.14	TECHNOLOGY		
TECHNOLOGY					
ADC:	8.07	(0.17)			
ADVANTAGE:	3.08	0.17			
ALCATEL LUCENT:	2.77	(0.09)			
AMDOCS:	28.10	0.16			
AMPHENOL:	42.66	(0.34)			
AOL:	22.28	0.64			
APPLE:	267.25	7.56			

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Overreaction

When I was an attorney at the FCC many years ago, in what was then known as the “Cable Television Task Force,” there were seven FCC Commissioners. The policy debates were free-wheeling, and all the Commissioners negotiated with the Bureaus, which were trying to find a consensus on language for various policies, rules and regulations.

It's not like that today. Now there are only five Commissioners, and the “party” split of 3 to 2 has an unfortunate way of influencing the outcomes rather than the intellectual positions and knowledge of the individuals. Too bad. I don't think it works as well. But even back then, the maneuvering and posturing sometimes got out of control.



Steve Effros

Commissioner Nick Johnson, the avowed “liberal” at that time, used to explain that one of his tactics was to always go as far out on a positional limb as he could—not necessarily because he believed in that as the actual position that should be taken by the Commission. But he argued that if he took the extreme position, then in the subsequent bargaining that ultimately took everyone toward the “middle,” that “middle” would have inched some in his direction. Maybe, maybe not.

I'm hopeful that what we're seeing today, both at the Commission and with the commentators looking at the proposals the Commission is making, is that the Johnson “overreaction” strategy is actually at play, and that folks don't really believe some of the breathless stuff they are saying.

The examples are everywhere. In the current bruhaha about a “Third Way” to “recapture” FCC authority over Broadband regulation, the Commission proponents say they have to move to a “Title II” designation because the Court has said they don't have authority to regulate

Broadband under Title I. Well, that's an overreaction. That's not what the Court said. It simply said that the specific thing the Commission was trying to do was not done properly under Title I. It did not say that done properly, it could not have been appropriate under that Title.

The commentators, meanwhile, are overreacting to the proposal by Chairman Genachowski that Broadband should suddenly be shifted to Title II regulation, albeit with forbearance of most of that Title's regulatory overkill. The hand-wringing is getting to the point of potential damage to limbs. It's clear to everyone that an attempted shift to Title II is purely to bolster the Commission's power to regulate, not because of some new, demonstrable market change. It's not clear how a Court will react to that. There's no question that if the Commission does take that path the Courts will be asked. But the overreaction comes in when there are immediate assumptions regarding the Commission's ability to rate regulate, or the like.

They have already said they would not do that. There's no reason not to believe them, and let's take it one more step; if you're on the “industry” side of this debate, ultimately, historically, did Title II rate regulation (in the case of the Telcos, rate of return regulation) help them or hurt them? Let's remember that with cable rate regulation, however much we disliked it (especially the paperwork, the legal fees and the hassle), rates went up for consumers during that period more than they did when there was no rate regulation! I think that may be one of the reasons the Chairman keeps saying he has no intention of moving to rate regulation. He knows they don't, and can't do it very well!

Overreaction isn't helping anyone.

Steve

T:703-631-2099
steve@effros.com

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