

# CableFAX Daily™

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What the Industry Reads First

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## Future of Video: Data Caps, DOJ Probe, Retrans Hot Items at Hearing

Not surprisingly, data caps, the reported DOJ cable probe and retrans disputes took the spotlight at the House Telecom subcommittee Future of Video hearing Wed as witnesses representing cable, OTT, satellite and broadcast took shots at each other. While Republican members like *Greg Walden* (R-OR) and *Fred Upton* (R-MI) made it clear that they are against expanding video regulation, members of the Democratic minority believed new rules might be needed to protect nascent companies. "I am concerned about the potential impact of data caps on the growth of the streaming video market," *Anna Eshoo* (D-CA) said. "Competitors need a fair shot at gaining access to content, and independent creators need rules that prevent discrimination against carriage of their programming," her fellow CA rep *Henry Waxman* said. The comments were echoed by **Netflix** CEO *David Hyman*, who asked the lawmakers to step in to prevent cable from discriminating traffic. "When you couple limited broadband competition with a strong desire to protect a legacy video distribution business, you have both the means and motivation to engage in anti-competitive behavior," Hyman said. The allegation is "just flatly wrong and belied by the facts," **NCTA** chief *Michael Powell* responded. Powell, in a briefing Tues, said he isn't worried about the reported antitrust investigation. Regulators, even consumer advocates have acknowledged that data caps aren't "inherently wrong"—it's all about fair pricing, he said Wed. Meanwhile, **DISH** CEO *Charlie Ergen* slammed broadcasters for acting as "a government-sponsored monopoly" when demanding higher fees from pay TV providers under the retrans rules and withdrawing programming when negotiations collapse. "The problem is only getting worse—with more blackouts and more broadcaster abuses," he said. While stations demand higher fees for carriage, their commitment to localism has gone down, Ergen said, noting many stations have been sharing newscasts. To fix the problem, pay TV companies should be allowed to import signals from net affiliates in other markets when negotiations break down, he said. The comments didn't sit well with **NAB** rep *David Barrett*, **Hearst TV** CEO. The money broadcasters collect supports local services as well as multi-cast channels, he said. Broadcasters shouldn't be blamed for rising pay TV fees, he said. "Cable price increases have consistently outpaced inflation for 11 of the last 12 years," he said. "This is even more confounding when you consider broadcast ratings are 6 times higher than cable... Clearly, retrans payments aren't the driver of increasing cable bills." *Diana DeGette* (D-CO) cautioned there's no "one size fits all" solution to retrans and "Congress shouldn't put

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too heavy a finger on the scale.” Differences aside, everyone seemed to agree the regulatory regime is outdated, but the shape of a new framework is subject to debate. “Everybody wants a little different deal,” joked Walden. **Public Knowledge Gigi Sohn** was ready for many rules to be eliminated, including must-carry rules, syndicated exclusivity, non-duplication and sports blackout rules. There’s need for a new regulatory model that better reflect the current market where cable ops no longer have a 98% share of the pie or had stakes in most of the nets, Powell said. A regulatory overhaul should be on the agenda for the next Congress, said *Joe Barton* (R-TX). Another hot item at the hearing is DISH commercial ad skipping device Auto Hop, which took some heat from *John Dingell* (D-MI). He worried the service allows viewers to skip political TV ads. Ergen replied: “I am not a politician. I certainly understand consumers.” As indicated by the Democratic staff memo on the hearing, the **Verizon/cable spectrum deal** was part of the discussion. Sohn, an opponent of the deal, said the marketing and reseller agreements would discriminate against competitors. “All deals deserve vigilance,” Powell said, without directly commenting on the transaction.

**Retrans: DirecTV**, already mired in a retrans blackout with **Diversified Comm** stations, could have another one on its hands. **Northwest Broadcasting** began notifying viewers Wed that the DBS provider’s customers could lose stations in Binghamton, NY; Medford, OR; Yakima and Spokane, WA; and Laredo, TX, on July 1. The broadcaster said DirecTV has been operating on a temporary agreement for nearly 18 months. Recall that in Feb ’11, Northwest returned stations to DirecTV in time for the Super Bowl. Apparently, that wasn’t a final deal. Binghamton **Fox** affil **WICZ’s Website** said it has been operating on “a temporary agreement for nearly 18 months,” but despite efforts by Northwest, an agreement hasn’t been reached. DirecTV said Northwest’s alerts came “completely out of the blue” and “despite what we considered Northwest’s good faith proposal to continue to extend our agreement these past several months until officially notifying us otherwise.” As per usual, this all comes down to money. **Time Warner Cable** is also facing a July 1 retrans deadline with **Hearst**. And don’t forget **DISH** is prepared to pull the plug on **AMC Nets** Sun as well. Should be an interesting weekend...

**Comcast-NBCU: Comcast** has agreed to pay \$800K and extend its **FCC NBCU** merger condition to provide reasonably priced standalone broadband service to consumers who don’t take cable from the company until Feb ’15 (an additional year). This settles the FCC’s probe into whether the MSO was adequately marketing the standalone broadband service, dubbed Performance Starter. FCC chmn *Julius Genachowski* said the action demonstrates that compliance with FCC orders “is not optional.” A Comcast statement said the MSO has incorporated extensive commitments and conditions from the NBCU transaction into its DNA, adding that Performance Starter was rolled out in 1 month, the fastest it has ever deployed a new service simultaneously through its footprint. “As is often the case with services associated with government orders, the FCC had questions on how the service might have been rolled out in a different or even better way. We are pleased that Comcast and the FCC were able to address such issues cooperatively and constructively in a consensual manner,” Comcast said. Also on Comcast’s to-do-list: training its customer reps and retail sales to reinforce their awareness and familiarity with the “Performance Starter” broadband service; ensuring new and existing customers have equal access to a Web page devoted exclusively to describing and permitting online purchase of all retail standalone broadband service options; listing the “Performance Starter” service tier on product lists issued to Comcast customers; conducting a major ad promotion of Comcast’s standalone retail broadband Internet access service offerings in ’13; and continuing to offer the “Performance Starter” service at its owned and operated retail loca-



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tions and offering its 3rd-party retail agents and independent dealers the opportunity to sell the Performance Starter broadband service. Last month, the FCC Media Bureau ruled that Comcast had violated a Comcast-NBCU neighborhooding condition in its treatment of **Bloomberg TV**. The company is appealing.

**Spectrum Dealing:** 2 days after **Verizon** and **T-Mobile's** agreement to trade spectrum, the **FCC** called a 14-day timeout in its scrutiny of the VZ/cable spectrum deal to allow public comments on the impact of the spectrum swap. The agency expects to start the clock on its review July 10, day 138 of the 180-day review. In a separate announcement, T-Mobile USA CEO *Phillip Humm* is stepping down. The carrier named COO *Jim Alling* as interim CEO. A search for a successor is already under way. -- The **US Chamber of Commerce** wants the regulators to expedite its process to allow more flexible use of MSS bands. The FCC has proposed allowing terrestrial use of satellite spectrum in the 2Ghz band.

**At Deadline:** **Cablevision** said **Communications Workers of America** late Wed withdrew its attempt to represent CVC's outside plant techs in the Bronx, with the MSO saying it faced "likely defeat" among the workers. The vote had been scheduled for Thurs. Bronx field and audit techs will still vote Thurs on whether or not they want CWA representation. CWA couldn't be reached immediately.

**Aspiring for Carriage:** *Earvin "Magic" Johnson*-backed **Aspire** was set to go live at 8pm ET Wed night. **Time Warner Cable** announced hours before show time that it would be an inaugural distribution partner along with **Comcast**. Comcast revealed in Feb that Aspire is 1 of 4 majority African American-owned nets it will launch as an **NBCU** condition. At launch, Aspire will be in nearly 7mln homes and in 16 of the top 25 African American markets, including NYC, Atlanta, Chicago and DC. TWC is beginning with a digital basic launch in NYC, but plans to roll Aspire out to other markets in the coming months. Aspire also will launch on **FAVE TV**, an Internet video service offered by **Sky Angel**. For Time Warner Cable, it sounds like the MSO is a believer in Johnson's promise of groundbreaking programming aimed at showcasing African-Americans' accomplishments and aspirations. "What was really compelling for us is that we serve a diverse community and we have a lot of African-American consumers. It's important to Time Warner Cable to be as successful as we can be with those consumers and in those markets," said TWC programming chief *Melinda Witmer*. "We felt when we met [Johnson] that if we're able to work with together with this network, but also in partnership with Earvin, that he could potentially help us to be a better business and better operator better serving those consumers." Johnson, chmn/CEO of Aspire, said it has been a "long-held dream" to launch a network with positive portrayals of African-American lifestyles and accomplishments, while also "creating opportunities for the next generation of artists and storytellers." **GMC** is helping Aspire. **Chrysler Group, L'Oreal USA, Nationwide Insurance, Coca-Cola** and **Walmart** are on board as charter brand partners. Aspire's programming slate will span movies (including "Shaft" and "Rosewood"), music (performances from artists in every genre, including *Earth, Wind & Fire*), comedy (standup as well as acquired series, such as "The Cosby Show"), visual & performing arts, and faith & inspirational shows. Docs are also on tap, including "When We Were Kings" and "Rising from the Rails: The Story of the Pullman Porter."

**Olympics:** The 2012 London Summer Olympics marks the 1st Olympics coverage by **NBC Universal** since the merger with **Comcast**. NBCU will provide 5,535 hours of coverage across **NBC, NBC Sports Network, MSNBC, CNBC, Bravo, Telemundo, NBCOlympics.com**, 2 specialty channels, and the 1st ever 3D platform, surpassing the coverage of the 2008 Beijing Olympics by nearly 2K hours, said *Mark Lazarus*, chmn of **NBC Sports Group**, during a conference call Wed. Olympics programming is a "must have," he said. Though the jury is still out in terms of economics of the event, Lazarus is confident that it would be a profitable, long-term deal. Among the contributors are the distribution partners, he said. Meanwhile, the majority of the content online, especially live streaming, would require verification of cable subscription, though there will be rewinds and highlights for free, said *Jim Bell*, exec producer of NBC Olympics as well as chief of the "Today Show." Bell fielded a question about how he's dealing with the turmoil at the morning show, which includes *Ann Curry* reportedly close to being replaced as co-anchor by current third-hour anchor Savannah Guthrie. Bell simply said the "Today Show" and Olympics are great brands but have had ups and downs. Cable, satellite and telco customers can verify their mobile and tablet devices when the NBC Olympics Extra App launches in mid-July. NBCU and its cable/satellite/telco friends are partnering on a campaign to educate customers about the verification process. A video with TV host *Carson Daly* that explains the process started airing on cable, satellite and telco systems across the country in mid-June and will continue until the Olympics begins. It will also air as part of NBCU's Olympic cross-channel marketing efforts and online. A sweepstakes with a trip to the London Olympics as a grand prize was created to incentivize verification. For customers having trouble verifying their subscription, a temporary one-time-only pass will be extended for 4 hours during the Olympics Games. The huge amount of content on different platforms won't overwhelm viewers, according to *Gary Zenkel*, pres of NBC Olympics. Operators will be offering electronic programming guides via set-top boxes, he said. Wondering

# BUSINESS & FINANCE

what the biggest challenge of Olympic coverage is? The opening ceremony, according to *Bob Costas*, host of the primetime coverage from London. There's no right way to do it. "If anyone has a formula for the exact right way to cover the opening ceremony please contact me," he said.

**Carriage: Sportsman HD** picked up additional carriage deals in **Charter** markets, including MO, N CA, OR, WA, MN and New England. -- **DISH** became the 1st US MVPD to offer luxury-focused LUXE.TV, launching it Wed as part of its lineup of more than 240 intl programming options. -- Palmer, AK-based **MTA** is the latest distributor to add **MavTV** to its lineup.

**Programming:** "Men at Work" will keep working at **TBS**, with the net renewing the sitcom for a 2nd season to launch next year.

**Business/Finance: Liberty's John Malone** sold 2.2mln shares of **Discovery** Series C (DISCK) earlier this month, according to an **SEC** filing Wed. **Bernstein Research** thinks it's a positive signal, saying Discovery itself may have been the buyer. If that's the case, the analysts said they view it as more of a "confirmation that Discovery will use the majority of its \$1bln to repurchase stock." -- **Knology** shareholders on Tues approved its previously announced \$1.5bln merger with **WOW**. More than 31mln shares voted in favor of the deal, with a little over 19K voting against.

## CableFAX Daily Stockwatch

Company	06/27 Close	1-Day Ch	Company	06/27 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>			<b>CLEARWIRE:</b> ..... 1.15 ..... (0.03)		
DIRECTV:	47.53	1.13	CONCURRENT:	4.00	(0.02)
DISH:	27.30	0.21	CONVERGYS:	14.51	0.20
DISNEY:	47.87	0.57	CSG SYSTEMS:	16.90	0.13
GE:	20.13	0.33	ECHOSTAR:	25.89	(0.26)
NEWS CORP:	22.41	0.45	GOOGLE:	569.30	4.62
<b>MSOS</b>			HARMONIC:	4.24	0.06
CABLEVISION:	12.71	0.53	INTEL:	26.22	0.21
CHARTER:	69.65	1.95	JDSU:	10.40	0.37
COMCAST:	31.04	0.47	LEVEL 3:	21.49	0.29
COMCAST SPCL:	30.53	0.36	MICROSOFT:	30.17	0.15
GCI:	8.06	0.10	RENTRAK:	19.67	0.10
KNOWLOGY:	19.68	(0.02)	SEACHANGE:	7.87	(0.06)
LIBERTY GLOBAL:	48.30	0.46	SONY:	13.81	(0.03)
LIBERTY INT:	17.23	0.10	SPRINT NEXTEL:	3.13	UNCH
SHAW COMM:	18.91	(0.1)	TIVO:	7.96	(0.02)
TIME WARNER CABLE:	80.00	1.62	UNIVERSAL ELEC:	12.23	0.34
VIRGIN MEDIA:	24.19	0.39	VONAGE:	2.09	0.18
WASH POST:	365.38	1.83	YAHOO:	15.52	0.17
<b>PROGRAMMING</b>			<b>TELCOS</b>		
AMC NETWORKS:	36.54	0.05	AT&T:	35.19	0.21
CBS:	31.98	0.42	VERIZON:	43.78	(0.06)
CROWN:	1.69	0.02	<b>MARKET INDICES</b>		
DISCOVERY:	53.45	0.60	DOW:	12627.01	92.34
GRUPO TELEVISA:	21.39	0.91	NASDAQ:	2875.32	21.26
HSN:	39.20	(0.05)	S&P 500:	1331.85	11.86
INTERACTIVE CORP:	45.62	0.20			
LIONSGATE:	14.75	(0.15)			
LODGENET:	1.42	(0.02)			
NEW FRONTIER:	1.62	(0.03)			
OUTDOOR:	7.26	0.06			
SCRIPPS INT:	56.00	0.35			
TIME WARNER:	38.00	0.85			
VALUEVISION:	2.08	(0.24)			
VIACOM:	51.89	0.56			
WWE:	7.66	0.04			
<b>TECHNOLOGY</b>					
ADVANTAGE:	2.04	(0.11)			
ALCATEL LUCENT:	1.60	0.09			
AMDOCS:	29.24	0.18			
AMPHENOL:	53.75	0.29			
AOL:	27.31	0.06			
APPLE:	574.50	2.48			
ARRIS GROUP:	13.59	(0.04)			
AVID TECH:	7.04	0.15			
BLNDER TONGUE:	1.15	0.01			
BROADCOM:	32.89	0.58			
CISCO:	16.73	(0.09)			

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## Think about that for a minute...

### Spoiled

Commentary by Steve Effros

I'm spending two weeks in Maine, and while it's wonderful up here, especially when the temperature in Washington is hitting 100, I'm also getting a real lesson in how spoiled I am.

To me, reliable, solid, fast Internet connections are sort of like food and water: essential. At home, where I work most of the time and write these tomes as well as communicate with folks about cable television day in and day out, I've gotten totally used to a high-speed broadband connection from Cox or Verizon. They are both good, both reliable—the key point—and more than I need in terms of speed.



Up here, however, at a rental house perched out on a point looking out at Penobscot Bay, Internet connections are an adventure at best. The only option is a DSL line, so speed is not even an issue. The issue is whether there's a connection at all. From talking to folks around the little town we are near, this is not just a question for me. It apparently is just part of the definition of "Internet Service" here that it goes out periodically and there's no telling when. The only thing you can be pretty sure of is that it will go out!

I was up here last summer, and the DSL/WiFi connection worked pretty well. I was expecting that again and have my iPad as well as my laptop all set to allow me to work easily. Not to be. The DSL has been out for days. The fellow we rent from, who lives next door, says his is going in and out randomly. The telephone company is coming tomorrow to see if they can find out what's wrong, but the service guy on the phone said the rains they have been having up here tend to screw things up.

Rain? Can't really imagine a cable company in my home area suggesting that rain would knock out the

system. If that were the case, the system would be out a whole lot! But I guess that's exactly what's happening here. And it reminded me of how spoiled I am.

It also put a new perspective on what we have been doing as an industry, and what we have gotten folks used to. There's a new competitive tactic going on in several major urban areas with claims and counterclaims about who delivers the "fastest" broadband and what the country really needs in terms of speed, speed, speed.

Of course if you talk to the computer folks who are not the "power users" or the bloggers, you find out that when someone like Verizon announces a new offering of 300 Mbps service costing over \$200 per month, you learn that the real news is the price, not the speed! Why? Because there are virtually no real uses for speed like that in a residential setting. Sure, if you have multiple "Smart TVs" and you are streaming a different movie to say four of them at the same time, speed may be important, not because of the speed per se, but because it might avoid conflicts in the inherently limited bandwidth being used. In almost all cases, however, speed that high is just an excuse to blow the marketing horns and see just how much someone is willing to pay for something they can't use.

My advice; skip the "speed" race and win with reliability. The capex you spend on maintaining and reinforcing that reliability is money much better spent.

*Steve*

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*(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry)*



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