

CableFAX Daily™

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What the Industry Reads First

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Day 8: DirecTV Balks at EPIX, Other Fights Continue as Sen Hearing Nears

It's Day 8 of darkness for **Viacom** nets on **DirecTV**, and things don't look great. "Due to DIRECTV's refusal to negotiate productively, we sadly see no immediate end to this blackout in sight," Viacom tweeted late Wed. DirecTV then released a statement blaming Viacom's alleged insistence that the DBS op carry **EPIX** "at an additional cost of more than half a billion dollars. We know our customers don't want to pay such an extreme price for an extra channel, they simply want the ones they had returned to them... We are ready to close this deal at any time and restore those channels to our customers." It also marked Day 8 for the blackout of **Hearst** stations on **Time Warner Cable** systems. **DISH** subs have been without **AMC** and its siblings for 17 days now. And everyone is trying to get a word in about on the spats ahead of Tues' **Sen Commerce** hearing. "Broadcasters sympathize with viewers used as pawns by Time Warner Cable, DISH Network and DirecTV in program carriage disputes," read a statement from **NAB** spokesman *Dennis Wharton*. "The fact is there are more than 5,800 pay TV providers across America. Yet since 2000, just 0.3% of pay TV companies have EVER been involved in a program dispute resulting in a disruption of local television service. It's no coincidence that Time Warner Cable, DISH and DirecTV are responsible for three out of every four retransmission consent disruptions in 2012. Rather than negotiate in the free market for the most popular programming on TV, this cozy pay TV cabal is manufacturing a phony crisis in hopes that Congress will fix a 'problem' that these companies are creating." That, of course, triggered an **ACA** response: "ACA believes the only people who are manufacturing a retransmission consent crisis for consumers are TV station owners themselves. Broadcasters support the status quo because it allows them to leverage monopoly market power and friendly federal regulations to slam viewers with sudden signal blackouts that don't end until targeted pay-TV providers surrender outrageous amounts of cash, driving up monthly bills." -- We noticed last week that **Comcast** was going after unhappy DirecTV subs on **Twitter**. **BTIG's Rich Greenfield** found more instances, noting that the MSO is running radio spots, DISH is featuring Dora, Snooki and the rest of the Viacom crew predominantly on its homepage, and **Cablevision** has ads popping up related to Viacom-DirecTV search engine inquiries. So much for that "we're in this together" thing... Still, DirecTV is publicly calling attention to support it has received from some MVPDs. "When our top competitors like Time Warner Cable, **Cox**, **Mediacom** and the 850 mom-and-pop cable shops of the American Cable Association

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voice their support, we believe a change for the better is coming soon,” read a note on DirecTV’s **Facebook** page.

At Our Deadline: Atlantic Broadband is the latest independent cable op to find a buyer. Canadian cable op **Cogeco** will pay about \$1.36bln (8.3x, 13 EBITDA) to enter the US market, snapping up Atlantic systems serving 252K basic customers in PA, MD, DE, SC and Miami. Atlantic is privately owned by **Abry** and **Oak Hill Capital**. “There are sizeable opportunities for growth including: increasing the penetration of the small and mid-sized business segment, and maximizing the bundling potential of services in the residential sector,” said Cogeco pres/CEO *Louis Audet*. The deal, expected to close by year-end, will give Cogeco about 1.1mln basic subs in the US and Canada. On Tues, **WOW!** closed on its \$1.5bln deal to acquire Knology systems, which represents a multiple of about 7.5x EBITDA.

Retrans Redux: Hearst stations are walking viewers through **Time Warner Cable**’s voicemail prompts so that they can get a live person. “When asked if you have an account say ‘no.’ When asked if you have an appointment say, ‘no.’ Then press 2 when asked to provide feedback and you will then get a representative on the line,” one channel advised. Stations are also encouraging viewers to share photos on **Facebook** saying they want their station back and to send pre-scripted tweets and emails. Hearst complained Wed that TWC didn’t respond to an offer the day before that it claims was within 5% of the MSO’s offer to Hearst on July 9. “It has become clear that Time Warner, as the leader in the lobbying effort to roll back the 1992 Cable Act, which was designed to preserve the health of local television broadcasting and has worked as Congress intended, has decided to hold its subscribers hostage in the hope that it can pressure Congress to intervene,” said Hearst pres *David Barrett*. Time Warner Cable disagreed, saying negotiations are ongoing that its lead negotiator had lunch with Hearst officials Tues and that it got a written proposal from the broadcaster Tues night. “We agree with Hearst that the programming should come back on the air. But only Hearst has the power to restore the programming,” the MSO said. -- Thank goodness 1 retrans deal is now complete. **West Virginia Media**’s WBOY (NBC and ABC in Clarksburg), WOWK (CBS in Charleston), WVNS (Fox and CBS in Bluefield and WTRF (CBS, FOX and ABC in Wheeling) returned to **DISH** Wed. The stations had been dark since July 1. The DBS op said it was pleased the owner of the broadcaster “personally reached out” directly to DISH to seal the deal.

Spectrum Games: The FCC wants to help minority entrepreneurs get better access to spectrum, capital and markets through the upcoming incentive auctions and potential opportunities in the unlicensed bands and secondary markets, 3 commissioners said at the **MMTC** Access to Capital and Telecom Policy conference Wed. Cmsr *Robert McDowell* reminded the audience that it takes time to get spectrum in the pipeline. But now that Congress has granted the FCC auction authority (through the Middle Class Tax Relief and Job Creation Act of 2012), he hopes the agency can launch a proceeding “as soon as possible.” McDowell supports strong buildout conditions and flexible spectrum use. “I am a strong proponent of unlicensed use” and “creating low barriers to entry,” he said. He said Congress should reinstate tax breaks for minority-related media transactions, and cmsr *Mignon Clyburn* urged consideration of new entrant bidding credits to attract small and minority businesses to the auction. She cited that group’s low average 2.6% participation rate in Auction 73. Diversity should be a priority, said commish *Jessica Rosenworcel*, who called for solid data so that any FCC actions can survive court review. (In the 1995 *Adarand Constructors vs Pena* case, the Supreme Court held that racial classifications, imposed by fed gov, must be analyzed under a standard of strict scrutiny). At another panel, **AT&T** sr evp *Jim Cicconi* said 23% of its spending in ’11 went to minority, women and disabled veterans business enterprises. **Verizon** evp *Tom Tauke* said Verizon has spent \$3.8bln with minority enterprises over the last year.

Social Circle: Facebook? Pinterest? Twitter? How about just creating your own white label social network solution. **USA** did it with its Character Chatter, which has grown from a couple shows to a home for 20 or so. It recently hit the 1mln user mark, according to *Rahul Aggarwal*, CEO of **Arktan**, which helps brands create their own white label solutions. Speaking with Aggarwal at Wed’s Social TV Summit in L.A., **AETN** svp, digital media *Evan Silverman* warned against trying to transfer existing social media utility to your own white label. The value proposition needs to be great enough to change an existing behavior or at least be great enough to compel the user to add a new behavior, he said. On Thurs, **Lifetime** launches “Real-Time Runway,” a value-add, spoiler-free “Project Runway” conversation that aggregates selected ep-related comments. Lifetime also will offer its “Favorite Fan” contest, in which a top tweeter will receive a \$500 weekly cash prize. The social TV features encourage live viewing. For **WWE**, the white label solution is about taking its more than 1mln Twitter followers and its Facebook fans, and creating a “larger than life” experience, said svp, digital *Jason*

BUSINESS & FINANCE

Hoch. It started with making WWE.com a 2-way conversation, and the brand took another step forward last week with its partnership with **Tout**. Immediately after WWE featured fan Touts—15-sec self-recorded videos—during “Monday Night Raw,” the social media platform’s app jumped from #37 to #6 in the free photo & video category on the iTunes App store. It was downloaded more than 30K times within hours of the broadcast. Hoch noted that *Shaq* had been the #1 Tout user for about a year, but it took WWE star *John Cena* just 5 days to surpass him. “Tout is great as... an app. We re-imagined it almost as a WWE specific platform,” he said, adding that in about 30-days a complementary 2-way, mobile experience will launch. Hoch talked up the white label offerings’ ability to get fans to your Website (last month, page views were up about 50% at WWE.com since before it started having 2-way conversations with fans at the site). Silverman said white label solutions can also be about monetization. “Sponsors are really looking for a hub... It’s important to have a branded, well-lit white label solution that allows you to do that.”

People: **Discovery Channel** named former **Oxygen** exec *Scott Lewers* as svp, programming.

On the Circuit: **Cox** and the **Healthy Media Commission for Positive Images of Women and Girls** will be honored at the **Kaitz** fundraising dinner, Sept 12, NYC.

CableFAX Daily Stockwatch

Company	07/18 Close	1-Day Ch	Company	07/18 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	48.60	(0.18)	CONCURRENT:	4.15	UNCH
DISH:	28.84	(0.06)	CONVERGYS:	15.00	0.06
DISNEY:	49.35	UNCH	CSG SYSTEMS:	17.80	0.14
GE:	19.84	0.12	ECHOSTAR:	26.35	0.35
NEWS CORP:	22.62	0.15	GOOGLE:	580.76	4.03
MSOS					
CABLEVISION:	13.38	(0.01)	HARMONIC:	4.07	0.18
CHARTER:	72.95	(0.12)	INTEL:	26.21	0.83
COMCAST:	32.39	0.06	JDSU:	9.29	0.66
COMCAST SPCL:	31.83	0.04	LEVEL 3:	20.98	1.11
GCI:	10.05	(0.03)	MICROSOFT:	30.45	0.79
LIBERTY GLOBAL:	51.73	(0.89)	RENTRAK:	19.46	(0.17)
LIBERTY INT:	18.39	0.31	SEACHANGE:	7.86	0.08
SHAW COMM:	19.42	(0.33)	SONY:	12.34	0.04
TIME WARNER CABLE:	85.05	0.19	SPRINT NEXTEL:	3.66	0.01
VIRGIN MEDIA:	24.88	(0.42)	TIVO:	7.94	(0.01)
WASH POST:	363.88	3.24	UNIVERSAL ELEC:	13.84	0.20
PROGRAMMING					
AMC NETWORKS:	42.75	0.19	VONAGE:	1.89	0.07
CBS:	31.56	(0.41)	YAHOO:	15.70	0.10
CROWN:	1.78	0.05	TELCOS		
DISCOVERY:	50.50	(0.14)	AT&T:	36.19	0.37
GRUPO TELEVISA:	22.63	(0.08)	VERIZON:	45.89	0.23
HSN:	43.24	0.11	MARKET INDICES		
INTERACTIVE CORP:	48.90	0.97	DOW:	12908.70	103.16
LIONSGATE:	14.66	0.18	NASDAQ:	2942.60	32.56
LODGENET:	1.29	0.05	S&P 500:	1372.78	9.11
NEW FRONTIER:	1.59	(0.04)	TECHNOLOGY		
OUTDOOR:	7.30	0.06	ADDVANTAGE:	2.10	0.09
SCRIPPS INT:	54.30	(0.21)	ALCATEL LUCENT:	1.09	(0.02)
TIME WARNER:	38.92	0.19	AMDOCS:	29.99	0.11
VALUEVISION:	2.26	0.04	AMPHENOL:	58.94	7.58
VIACOM:	49.80	0.72	AOL:	27.67	(0.26)
WWE:	7.80	0.04	APPLE:	606.26	(0.68)
MARKET INDICES					
			ARRIS GROUP:	14.05	0.16
			AVID TECH:	7.43	0.40
			BLNDER TONGUE:	1.15	(0.05)
			BROADCOM:	30.65	1.05
			CISCO:	16.70	0.47
			CLEARWIRE:	1.02	(0.05)

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Think about that for a minute...

Free-for-all

Commentary by Steve Effros

The headlines over the past couple of weeks regarding blackouts, fee disputes, legal opinions, FCC actions and the like all dealing with various aspects of video delivery, and the public posturing being taken on all sides, is starting to reach a dangerous crescendo. They might potentially put us all at risk of a true legislative free-for-all much sooner than is healthy for anyone.



Look what's happened in the last few months; a new "business" has been announced that claims little remote antennas receiving broadcast signals bypasses the copyright laws. Another business is being cooked up that says "local video subscribers" don't have to live where the service they subscribed to is delivered. A programmer has

demanded a fee increase apparently so high that one of the largest MVPDs has refused to carry the channels and the MVPD's CEO is now calling for a la carte requirements. The list goes on.

What it tells me, especially the governmental reactions to these developments, is that the current laws and regulations dealing with video delivery are just plain broken, and there is little hope that they can be fixed.

A lower Court in New York has decided not to grant a preliminary injunction to the broadcasters against Aereo. The decision itself is not terribly significant, since it only deals with a preliminary injunction (no immediate irreparable harm) and the legal arguments over copyright and, presumably, retransmission consent have yet to be fully heard. But that's likely a year from now.

The FCC started a proceeding implicitly indicating it doesn't really know what "MultiChannel Video Programming Distributor" should mean in the new world of Internet and "OVD" delivery. Depending on what that definition

turns out to be could totally change the landscape of obligations for "cable" operators and "OVD" companies as well. It could mean the end of "retransmission consent" or it could freeze development of OVD alternatives by applying all the requirements of an "MVPD" to all video distribution on the Web, including retrans, EAS requirements, closed captioning, franchise fees? Well, you get the point.

Have the programmers gone too far in their fee and tying demands? Are the MVPDs now ready to engage in the battle of simply refusing to carry certain channels that they can't financially justify? Are we at the point that the "cable" guys just say to the programmers that cable will no longer be the aggregator and will simply provide the infrastructure for delivery, however that delivery is accomplished? (That, by the way, some would argue is financially smarter for cable operators than any other route). Is the call for "a la carte" as an "answer" to the fee fights going to resonate in Washington to the point where it becomes a viable legislative alternative? Will that adversely affect diversity and increase rather than decrease consumer costs?

Hey, I'm not going to try to answer all those questions right now. I just want to point out that they are, suddenly, all "on the table" for one reason or another at the same time, and the legal structures to deal with them are no longer working. That means, to me, that the odds increase exponentially that some folks on Capitol Hill will take a serious shot at rewriting the underlying laws. We have all known that a Telecommunications Act rewrite was in the offing in the next 2 to 4 years, but all this noise may force action sooner, and we're not ready for that. We need to seriously start studying all our options.

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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