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Monday — July 23, 2012 | What the Industry Reads First | Volume 23 / No. 140

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Independent Show: NCTC Head Talks TVE, Programming Deals and More

When **NCTC** and **ACA**'s **Independent Show** gets underway in Orlando Mon, TV Everywhere will be at the forefront. The co-op has enabled more than 80 of its member companies to offer TVE authentication and has completed several deals with programmers for TVE rights. One of the remaining companies with which it doesn't have a deal is **HBO Go**. "We're working with them. They haven't said no, but they haven't said yes yet," NCTC CEO *Rich Fickle* said Fri. He's obviously proud of the quick movement NCTC has made on its TVE initiative, dubbed Watch TV Everywhere (it leverages work already being done by **Massillon Cable**). Members will be able to participate in the **NBCU**'s authentication of the Summer Olympics, which gets underway Fri. "Just a few months ago, some of the small members didn't have any way to participate in authenticated content… A lot of the smaller companies were shut out because of the cost structure and flexibility of the vendors and things like that. So that was our primary mission," said Fickle. The NCTC plans to create additional ways to expand TV Everywhere capabilities for its members, including methods to originate content and enhance navigation for multi-screen access. That brings us to another priority at the show: next-generation navigation. The conference will feature exhibitors that have never been there before (such as **Rovi**). "These are big issues for [members] ," Fickle said, adding that Rovi hasn't yet found a way to work effectively with the co-op. "That whole space is very important, especially as you move across platforms and content sources… We're pursuing dialogues with Rovi, **TiVo**… **Arris** has the Moxi user interface. And there are a couple other approaches out there." NCTC's also getting programming deals done, including an agreement with **Pac-12 Ent**. It's the programmer's 1st announced agreement since the venture was announced last summer in conjunction with **Comcast, Time Warner Cable, Cox** and **Bright House**. The Pac-12 Networks, which consist of one national and six regional networks, will be available to NCTC participating members starting Aug 15, when the new networks launch. And yes, there will be TV Everywhere. "The deal is structured so that there are some carriage commitments if you're within that region that you have to carry the regional content, and you have options if you're outside those regions," Fickle said. "It has a lot of flexibility for carriage outside that home market." NCTC also just wrapped up a deal with family friendly movie channel **PixL**, which has a few million homes through DISH. "It's programmed by *Larry Levinson*, an established movie maker who has created

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movies for a lot of different networks and theatricals. A lot of them you'd recognize as having been aired on the **Hallmark Channel** over the years," Fickle said. "There is a lot of flexibility with TV Everywhere rights… Sometimes we're so locked up in these big [programming] battles, we don't embrace new content." Headed into the Indy Show, which will be in Orlando through Wed, NCTC is riding high. Not only is record attendance expected, but some of NCTC's members (**Wave, Suddenlink** and **Atlantic Broadband**) just wrapped up impressive private equity deals. "A lot of people say that mid-size and smaller operators' days are numbered, and to see this kind of capital investment is just tremendously encouraging," Fickle said.

Viacom-DirecTV: Now that the deal is done, everyone's busy guessing what it all means for **Viacom** and **DirecTV** as well as the industry at large. **Bernstein Research**'s *Todd Juenger* believes the 10-day blackout is the 1st time in memory that a distributor won the public relations war, citing a more even share of blame (as opposed to it mostly going to the MVPD). For what it's worth, brand monitoring agency **Loudpixel** found that DirecTV earned more than 4 times as many social mentions in the first 2 days after the channel went dark, reports sister pub *PR News*. And on the financial side, *Bloomberg's* report that Viacom will get more than $600mln a year from DirecTV under the 7-year deal (our understanding, it's about a 20% one-time increase, plus future smaller upticks). "Depending on the actual underlying financial facts (discussed below), from Viacom's perspective the deal was, at best, about in-line with expectations (most likely), or way below expectations. We cannot see any reading of the outcome suggesting Viacom exceeded expectations," Juenger told clients. **Wells Fargo**'s Marci Ryvicker also thinks DirecTV may have won the battle, pointing to the fact that the deal doesn't require carriage of **EPIX** (DirecTV does have the option to launch it). "While Viacom has publicly stated that EPIX was not a sticking point in negotiations, we believe EPIX was likely a significant issue for DirecTV," she said.

Hill Ready: **Mediacom**'s *Rocco Commisso* said the MSO will freeze its published rate for limited and expanded basic video for 2 years if broadcasters and cable nets on those tiers would agree to do likewise. The pledge was made in a letter to Sen Commerce members ahead of Tues' hearing on the '92 Cable Act. "With your backing, I am confident that a significant number of other MVPDs would join the freeze," wrote the Mediacom CEO. *Preston Padden*, a former **Disney** exec turned sr fellow at Univ of CO, is prepared to advocate doing away with cable and satellite compulsory copyright licenses and retransmission consent provisions. He thinks the repeal of compulsory copyright needs to happen before any repeal or modification of retrans. The compulsory copyright license lets MVPDs avoid paying fees for the actual programming on a local station. "The Retransmission Consent right is fundamentally flawed because it is based on a legal fiction—the notion that consumers and MVPDs are interested in a broadcast station's signal rather than in the programs on that signal," Padden said in prepared testimony. He argued that the continued existence of the compulsory license creates a major impediment to the emergence of new online video distributors like **Netflix**. "Congress gives **Comcast**, but not Netflix, a free copyright license for all the programs on local TV stations. Why?" he asks. "OVDs are the technology future of television and the hope of new competitive options for consumers. But OVDs are not eligible for the compulsory licenses." **CBS** and **NBC** affils have sent their own letter to Sen Commerce members, defending the retrans consent process. "Many MVPDs purport to want 'deregulation' of carriage issues. Yet, they take advantage of and oppose the repeal of the compulsory copyright licenses," wrote NBC TV affiliates vice chmn *Ralph Oakley*. "By contrast, the affiliates believe that, in combination, the local compulsory license, retransmission consent rights and exclusivity rules strike the right balance of serving the public interest and permitting fair market negotiations for local broadcast signals."

Hearst-TWC: **Hearst** and **Time Warner Cable** may have finally reached a retrans deal, but **Nexstar** is still unhappy. The broadcaster will continue to pursue legal action over TWC and **Bright House**'s importation of its signals in some affected Hearst markets. As for the retrans renewal, no one is talking specifics other than to say it's "long term." TWC thanked customers for their patience during "another unnecessary broadcaster blackout." Hearst TV pres/CEO *David Barrett* said the company regrets the inconvenience caused by the 10-day standoff, but said the process has "been an important step to insure the ongoing vitality of our local TV service in communities across the country."

Video Competition: The **FCC's** 14th video competition report made no conclusion on the competitiveness of the market. Rather, it highlighted TV Everywhere, OVD, VOD and the expansion of digital technology as the most significant trends since the last report. Meanwhile, the Commission seeks comments for its 15th video competition report. The FCC, for the 1st time, divides up the video market into MVPD, broadcast TV and OVD. Interestingly, cable MVPDs accounted for about 60% of all MVPD subs at the end of '10, down from 65% in '06. Though the number of cable video subs has been falling, cable MVPDs "have done well financially by increasing sales of advanced services to the remaining subs." The 2 DBS providers, **DirecTV** and **DISH**, accounted for about 33% of MVPD subs in '10, up from 29% in '06. Major telcos were the biggest competitive factor, with **AT&T U-Verse** and **Verizon FiOS** available to 1/3 of U.S. homes and accounting for around 7% of all MVPD subs at the end of '10. Commish *Robert McDowell* said he would have preferred an affirmative conclusion that the video market is competitive and noted that the report's analysis Internet video is limited to OVD offering professional content "previously exhibited on television or theatrically." Fellow Republican commish *Ajit Pai* echoed that, calling the video market "more competitive than it has ever been."

On the Hill: Perhaps as a compromise to get the Republicans onboard, 5 top senators softened a cybersecurity bill Thurs. And even *President Obama* lent a hand with an op-ed in the *WSJ* urging passage. Co-sponsors *Joe Lieberman* (ID-Conn), *Susan Collins* (R-ME), *Jay Rockefeller* (D-WV), *Dianne Feinstein* (D-CA) and *Tom Carper* (D-DE) were sure to release a joint statement arguing that the bill in no way resembles the Stop Online Piracy Act or the Protect IP Act. The latest version of the bill would create a multi-agency council National Cybersecurity Council, chaired by DHS Secretary, and allow industry participation.

CableFAX Week in Review

Company	Ticker	7/20 Close	1-Week % Chg	YTD %Chg
BROADCASTERS/DBS/MMDS				
DIRECTV:	DTV	48.33	0.02%	13.03%
DISH:	DISH	29.49	7.90%	3.55%
DISNEY:	DIS	48.59	0.83%	29.57%
GE:	GE	19.87	0.51%	10.94%
NEWS CORP:	NWS	22.23	0.54%	22.28%
MSOS				
CABLEVISION:	CVC	14.57	11.22%	2.46%
CHARTER:	CHTR	74.37	2.06%	30.61%
COMCAST:	CMCSA	32.18	0.97%	35.72%
COMCAST SPCL:	CMCSK	31.73	1.18%	34.68%
GCI:	GNCMA	9.63	(3.8%)	(1.63%)
LIBERTY GLOBAL:	LBTYA	52.24	3.82%	27.32%
LIBERTY INT:	LINTA	18.37	2.57%	13.26%
SHAW COMM:	SJR	19.22	0.10%	(0.77%)
TIME WARNER CABLE:	TWC	84.80	1.61%	33.40%
VIRGIN MEDIA:	VMED	25.11	1.52%	17.47%
WASH POST:	WPO	361.54	1.66%	(4.05%)
PROGRAMMING				
AMC NETWORKS:	AMCX	43.27	1.60%	15.14%
CBS:	CBS	31.49	0.64%	16.03%
CROWN:	CRWN	1.74	15.23%	43.80%
DISCOVERY:	DISCA	50.12	(0.54%)	22.33%
GRUPO TELEVISA:	TV	22.43	2.47%	6.51%
HSN:	HSNI	42.28	(0.75%)	16.60%
INTERACTIVE CORP:	IACI	48.56	4.32%	13.99%
LIONSGATE:	LGF	13.97	(3.92%)	67.91%
LODGENET:	LNET	0.88	(31.24%)	(63.18%)
NEW FRONTIER:	NOOF	1.62	2.00%	57.46%
OUTDOOR:	OUTD	7.18	(1.37%)	(3.75%)
SCRIPPS INT:	SNI	53.84	(2.04%)	26.92%
TIME WARNER:	TWX	38.86	0.70%	7.53%
VALUEVISION:	VVTV	2.18	(7.23%)	15.96%
VIACOM:	VIA	48.90	(0.59%)	(8.31%)
WWE:	WWE	7.75	(0.77%)	(16.85%)
TECHNOLOGY				
ADDVANTAGE:	AEY	2.16	2.86%	2.86%
ALCATEL LUCENT:	ALU	1.14	(30.06%)	(26.92%)
AMDOCS:	DOX	29.69	(0.37%)	4.07%
AMPHENOL:	APH	58.18	11.71%	28.18%
AOL:	AOL	27.81	1.05%	84.17%
APPLE:	AAPL	604.30	(0.11%)	49.21%
ARRIS GROUP:	ARRS	13.62	(1.59%)	25.88%
AVID TECH:	AVID	7.43	(3.51%)	(12.9%)
BROADCOM:	BRCM	31.62	1.93%	7.70%
CISCO:	CSCO	16.36	0.31%	(9.51%)
CLEARWIRE:	CLWR	1.02	(7.27%)	(47.42%)
CONCURRENT:	CCUR	4.18	(0.71%)	10.29%
CONVERGYS:	CVG	14.67	(0.14%)	14.88%
CSG SYSTEMS:	CSGS	17.72	0.91%	20.46%
ECHOSTAR:	SATS	26.90	3.54%	28.46%
GOOGLE:	GOOG	610.82	5.95%	(5.43%)
HARMONIC:	HLIT	4.01	0.00%	(20.44%)
INTEL:	INTC	25.52	(2.45%)	5.24%
JDSU:	JDSU	9.30	3.39%	(10.87%)

Company	Ticker	7/20 Close	1-Week % Chg	YTD %Chg
LEVEL 3:	LVLT	20.82	3.48%	22.54%
MICROSOFT:	MSFT	30.11	2.47%	16.01%
RENTRAK:	RENT	19.03	(6.72%)	33.26%
SEACHANGE:	SEAC	7.66	(5.08%)	8.96%
SONY:	SNE	12.08	(4.58%)	(33.04%)
SPRINT NEXTEL:	S	3.66	12.27%	56.41%
TIVO:	TIVO	8.29	0.36%	(7.58%)
UNIVERSAL ELEC:	UEIC	13.11	(6.16%)	(22.29%)
VONAGE:	VG	1.88	(1.05%)	(23.27%)
YAHOO:	YHOO	15.91	0.86%	(1.33%)
TELCOS				
AT&T:	T	35.29	(0.17%)	16.70%
VERIZON:	VZ	44.49	(1.59%)	10.89%
MARKET INDICES				
DOW:	DJI	12822.57	0.36%	4.95%
NASDAQ:	IXIC	2925.30	0.58%	12.29%
S&P 500:	GSPC	1362.66	0.43%	8.35%

WINNERS & LOSERS

THIS WEEK'S STOCK PRICE WINNERS

COMPANY	CLOSE	1-WK CH
1. CROWN:	1.74	15.23%
2. SPRINT NEXTEL:	3.66	12.27%
3. AMPHENOL:	58.18	11.71%
4. CABLEVISION:	14.57	11.22%
5. DISH:	29.49	7.90%

THIS WEEK'S STOCK PRICE LOSERS

COMPANY	CLOSE	1-WK CH
1. LODGENET:	0.88	(31.24%)
2. ALCATEL LUCENT:	1.14	(30.06%)
3. CLEARWIRE:	1.02	(7.27%)
4. VALUEVISION:	2.18	(7.23%)
5. RENTRAK:	19.03	(6.72%)

Think about that for a minute...

In Dependent

Commentary by Steve Effros

This is the week the "independent" operators meet, and once again note how they need to depend on each other to continue the business operations they have successfully conducted for years. What, or who, are the "independent" operators? That's been a question ever since we started CATA (the Community Antenna Television Association, which became the Cable Telecommunications Association) many years ago. It's often easier to describe who or what we weren't; a "big" "MSO." But that didn't really work, since many companies with "multiple systems" were clearly "independent," and even after CATA and NCTA got together after their memberships became so similar, the new ACA that emerged once again has both "small" and "big" operators.

The difference we focused on back then was that we were the "independent voice" of the industry. A voice that unambiguously represented operator interests above all others. No one ever doubted what CATA's position was on copyright, and no one now questions the ACA focus on retransmission consent and the leverage programmers are applying to enforce a business model of bundling, something that many cable operators would like to change. ACA Vice Chairman Bob Gessner just wrote an excellent and very convincing blog spelling that out.

That, however, still doesn't tell us what an "independent" operator is. Bob, as an example, runs a system that is far larger than the "average" 5000 subscriber system, and yet he is right when he notes that no matter how big the "indies" get, they will never have the leverage to deal, by themselves, with the negotiating power of the programmers and local broadcasters. Meanwhile, the biggest operators are finally drawing a line in the sand on those same programming dilemmas. Time Warner has spoken out forcefully, and DirecTV's stand-off with Viacom is creating a new and precedent shattering result: the loss of some subscribers because of a "blackout" is far less dramatic than the loss of viewership (Nielsen Share) experienced by the programmer. It's a result no "smaller" operator could have created. This changes the game.

All of this, along with the things I mentioned in last week's column, from Aereo to the definition of a DVR or an MVPD, is finally getting the attention of Capitol Hill, and one of the first real, preliminary looks at these issues, including "retrans," will take place Tues in scheduled hearings. Don't expect anything to come out of that right away. It's the beginning of the "next round" leading up to a new Telecommunications Act that deals with cable, satellite, wireless, broadband, the Internet and all the other things that have so changed our marketplace since the early '90s.

The important message, I think, is to establish that cable isn't one monolithic industry. This is particularly important for the FCC and any new legislative efforts to recognize—that the folks operating smaller systems, or ones in less urban areas, or who do not have what Wall Street likes to call "scale," need to be considered and sometimes treated differently from those that do. That's not to say we aren't all dependent on each other when it comes to the services we offer and the technologies we develop. We are. But our businesses are different by the very nature of who we are and how we operate.

We're "independent" as well as being "dependent" on our customers, our suppliers, our ability to generate grass-roots support, and, of course, our associations. That's a good thing, and hats off to the ACA and the "Independent" Show for being a cooperative part of that mix.

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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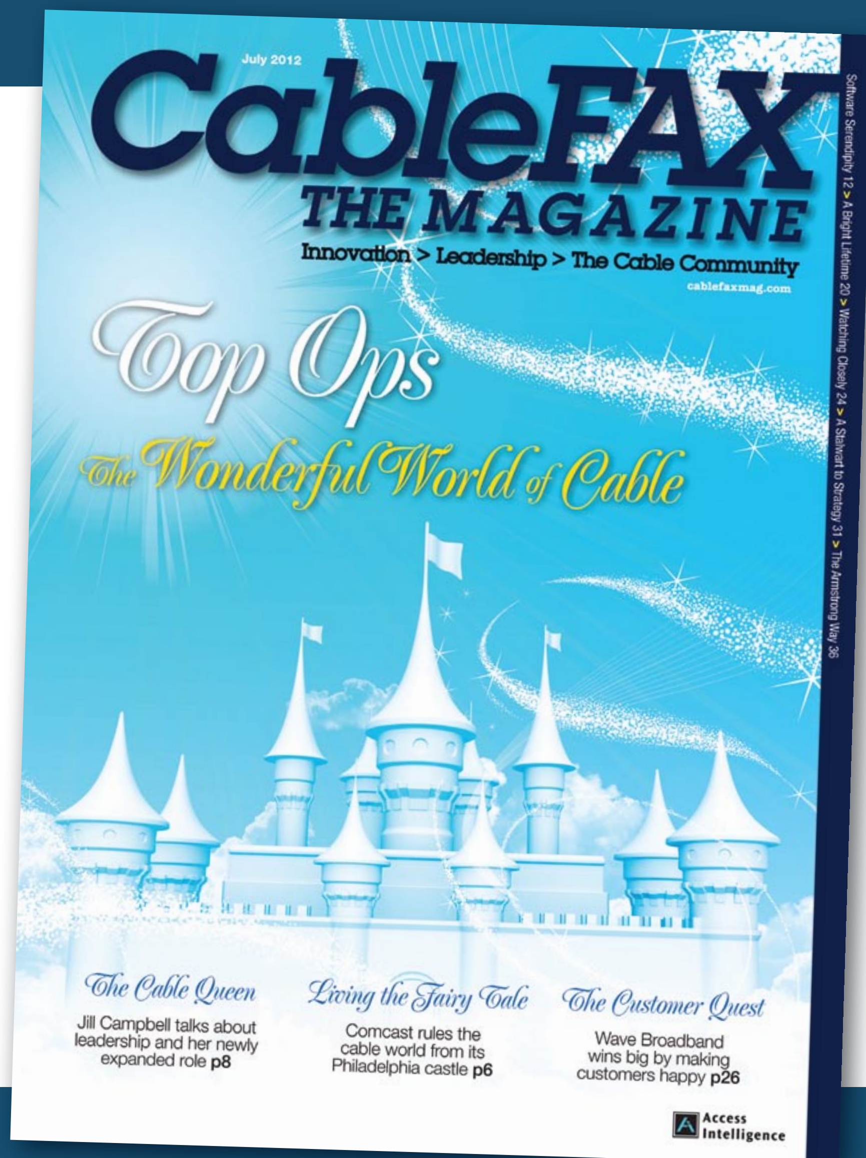
Program Awards & Top Ops Breakfast



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