

CableFAX Daily™

Wednesday — July 25, 2012

What the Industry Reads First

Volume 23 / No. 142

On the Hill: Cable Act Hearing Gets Its Day

How big of a deal was Tues' Sen Commerce hearing on the Cable Act? Well, #cableTV (the hash tag encouraged by **C-SPAN**) was trending on **Twitter** for a little while. Still, there weren't many surprises during the roughly hour and 40-min hearing, nor were there any real fireworks. The biggest news may have come from cmte chmn *Jay Rockefeller* (D-WV), who said that consumers deserve a refund when blackouts occur. But it's not all about retrans. He hammered at cable, complaining that "real competition should be bringing rates down." However, despite his questions about the Cable Act, Rockefeller didn't ask the panel of witnesses a single question. Sen *Jim DeMint* (R-SC), who has co-sponsored legislation to repeal retrans consent and the compulsory copyright license, said that lawmakers should remind themselves that it's not gov't's role to manage or control any business or entity. Sen *John Kerry* (D-MA) was skeptical about DeMint's legislation, saying it would "probably result in very few broadcasters being around," while **NAB's** *Gordon Smith* suggested it would cause more blackouts. *Preston Padden*, a former **Disney/Fox** exec turned adjunct law professor, gave his full support to the bill. "I disagree that [eliminating compulsory copyright] would cause more blackouts because more parties would have to negotiate," he said. "There would still only be a single negotiation between broadcasters and cable companies. Instead of it being about the signal, it would be about program rights." Padden's bottom line: programming creators of broadcast content deserve to be compensated for their product through a free-market negotiation. Kerry said he would not support a "radical" proposal to eliminate retrans and must carry but added he does want to "shield consumers from being used as pawns" in these disputes. He called on the industries to construct an alternative to blackouts and asked the **FCC** to complete its retrans proceeding. Witness comments were pretty much what you'd expect. **Time Warner Cable** programming chief *Melinda Witmer* said that the 69 blackouts this year represent a 39% increase over 2011. She rejected the notion that cable operators are "gatekeepers," saying they are very consumer-facing and that consumers often don't understand the system (ie, that MVPDs pay for the programming carried, etc). The often-witty *Martin Franks* of **CBS** poo-pooed the notion that the '92 Cable Act is an antique, saying many would consider a 20-year-old to only be "emerging from adolescence." While NAB's Smith complained that most of the disruptions involved **DISH**, **TWC** and **DirectTV**, Franks said there is an "unholy alliance of distributors who are supposed to compete against each other, but have banded together

Want to find a new cable super star in 2012?

Search candidates in the Cable360 Job Boards



Go to www.cable360.net/jobs

CONNECT ENGAGE TRANSFORM >

REGISTER WICT.ORG

THE WICT 2012
**LEADERSHIP
CONFERENCE**



SEPTEMBER 10-11
DURING DIVERSITY WEEK
HILTON NY

THE WICT 2012
**TOUCHSTONES
LUNCHEON**



SEPTEMBER 10
11:15 AM TO 1:15 PM
HILTON NY



Women in Cable
Telecommunications™

WE GRATEFULLY ACKNOWLEDGE THE TOP SPONSORS OF THE 2012 WICT LEADERSHIP CONFERENCE

PLATINUM

Comcast

Comcast
FOUNDATION

GOLD

VIACOM | **epix**
MEDIA NETWORKS

SILVER

TURNER
A Time Warner Company

BRONZE

suddenlink

WE GRATEFULLY ACKNOWLEDGE THE
PREMIER SPONSOR OF THE 2012
WICT TOUCHSTONES LUNCHEON

We^{tv}

NBCUniversal

CABLEFAX DAILY (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefaxdaily.com ● fax:301.738.8453 ● Editor-in-Chief: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Exec Editor: Michael Grebb, 818.945.5309, mgrebb@accessintel.com ● Editor: Joyce Wang, 301.354.1828, jwang@accessintel.com ● Community Editor: Kaylee Hultgren, 212.621.4200, khultgren@accessintel.com ● Advisor: Seth Arenstein ● Publisher: Debbie Vodenos, 301.354.1695, dvodenos@accessintel.com ● Assoc Publisher: Amy Abbey, 301.354.1629, aabbey@accessintel.com ● Marketing Dir: Barbara Bauer, 301.354.1796, bbauer@accessintel.com ● Prod: Joann Fato, 301.354.1681, jfato@accessintel.com ● Diane Schwartz/SVP and Group Publisher ● Subs/Client Services: 301.354.2101, fax 301.309.3847 ● Group Subs: Amy Russell, 301.354.1599, arussell@accessintel.com

er to [overthrow retrans.]” In that vein, **WOW!** CEO *Colleen Abdoulah* wants broadcasters to be prohibited from striking shared services agreement, which **ACA** argues gives them even more leverage in retrans. In the past 4 years, 800 small cable companies have gone out of business due to retrans fees and escalating programming costs, she testified. Franks warned the cmte that Abdoulah and WOW! do OK for themselves, with the “big, bad broadcaster” unable to convince WOW! to carry **CBS Sports Net**. Her retort: it’s not a good value, and customers aren’t demanding it. When prodded by Sen *Mark Pryor* (D-AR) about providing more transparency on deals, Abdoulah said she’d love to, but laws prohibit it.

Game Over: Tennis Channel remained victorious at the **FCC**, with the Commission upholding the ALJ’s decision that **Comcast** discriminated against the channel. It must be distributed on the same tiers as Comcast-owned **Golf** and **Ver-sus**. The MSO has 45 days to do so, although it has said it will appeal. The Commission did vacate the equitable channel placement portion, which would have required Tennis to be in the same channel neighborhood as the Comcast nets. “Because channel placement was not at the heart of the dispute between Comcast and Tennis Channel, and because Tennis Channel did not seek better channel placement as a remedy, the record on the effect of Tennis Channel’s placement was underdeveloped. Comcast also makes a compelling argument that the ALJ failed to consider adequately the burden of repositioning Tennis Channel,” the FCC said. Republicans *Robert McDowell* and *Ajit Pai* dissented, saying that Comcast’s treatment of Tennis was within the industry mainstream. They argue that the FCC compared apples to oranges by factoring in **DISH** and **DirecTV**’s carriage of Tennis since they have equity in the channel. The timing of the decision is great for Tennis given that its US Open coverage begins Aug 27. Comcast/**NBCU** DC pres *Kyle McSarrow* penned a blog post on the matter. “The decision will accomplish nothing other than to drive up programming costs and enrich a group of wealthy investors in the Tennis Channel,” he said in a statement, adding that Comcast has carried Tennis for more than 7 years under a contract that was freely negotiated. “The majority’s ruling misapplies Congress’ narrowly tailored statutory standards for discrimination and competitive harm, ignores evidence demonstrating that Comcast’s business decisions with respect to Tennis Channel were based on unbiased cost-benefit analyses (not improper discrimination), misreads the statute of limitations, and violates Comcast’s First Amendment rights.” Tennis, on the other hand, was over the moon. “Today’s decision underscores that Comcast’s power comes with a concurrent responsibility to see to it that the freedoms of speech and expression of the diverse programmers that serve these communities are not stifled simply because they compete with networks that the sole cable provider in the marketplace happens to own,” the net said. “While our network will benefit greatly from the broader carriage, ultimately it is the consumer who has won today.”

AT&T Earnings: AT&T added 155K **U-verse** TV subs in 2Q, down 23% from last year’s gain. Consensus was 184K adds. Despite the slowdown in video gains, U-Verse remained the growth engine for consumer wireline, and CFO *John Stephens* was upbeat. “U-verse revenue growth has been amazing,” he said. “It’s now a \$9bln annualized revenue stream, growing at about 38 percent year over year.” Overall, AT&T posted \$3.9bln in net income, up from \$3.6bln last year. AT&T blamed seasonality for net decline of 96k in total wireline broadband connections. **Bern-stein** analysts called the wired broadband losses “significant... That’s more than seasonality... One of AT&T’s more important growth supports in the wireline business has now gone into reverse,” they said. Said Stephens: “We are still optimistic about our wireline business and believe particularly our business revenues are going to be positive going forward. It just may take us a little bit longer.” AT&T’s consumer broadband, video and VoIP revenues now account for 57% of wireline consumer revenues, up 50% from the year-ago quarter. U-verse’s broadband adds of 553K were more than last year’s 439K. Meanwhile, speed does matter, as more than 50% of U-verse subs have bought into plans that offer broadband speeds of 12Mbps or higher. The number sat at 39% last year. In addition, 90% of new U-verse TV subs took broadband and about half of new subs took voice in the quarter. Overall, some 75% of U-verse TV subs have a triple- or quad-play option.

Legal Eagles: “I think Viacom overplayed its hand” in its renewal spat with **DirecTV**, **Public Knowledge** staff attorney *John Bergmayer* told Indy Show attendees Tues, pointing to reports that kids who used to watch **Nick** have found substitute programming. “Neither side can overplay their hand because alternatives start to emerge.” For distributors, that means MVPD competitors. Although **Verizon FIOS** attorney *Tonya Rutherford* thought it was interesting that **Time Warner Cable** opted not to step up marketing in an attempt to gain disgruntled DirecTV subs. “That’s an interesting position, and one we’re probably going to see a lot more of in the future,” she said. (The same didn’t hold true for all MVPDs, with

Comcast and others running DirecTV-focused ads during the spat) While it's never easy to have a blackout, **Franklin (KY) Plant Board** superintendent *John Higginbotham* said that when the municipal operator has absolutely had to do it, it has "always" gotten a better deal—though it comes with a price in the small community. "You can't go out to the grocery store, and you might want to skip church for 1 or 2 Sundays in a row," he said. Higginbotham noted that during **Hearst** and Time Warner Cable's 10-day blackout, all of the broadcaster's messaging in nearby Louisville was aimed at **Insight** instead of TWC as the branding transition hasn't happened yet. "I think a lot of consumers are pretty darned confused," he said. He also wouldn't mind finding out a bit more about how TWC was able to import distant network signals from Rochester, NY, and other areas during the standoff given his own retrans consent problems. He complained of 1 in-market station hiking retrans fees 4,500%. Internet streaming antenna service **Aereo** also came up during the discussion, with PK's Bergmayer saying that "everyone admits it's a close call" as to whether it will be deemed OK by the courts. **ACA** is extremely interested because if Aereo can lawfully do this, what's to stop a traditional cable operator from setting up the same technological platform, asked **Cinnamon Mueller's Barbara Esbin**. Bergmayer cautioned against such a mindset, suggesting that lawsuits would be filed arguing that a cable operator is different than a consumer opting to do it through Aereo. The argument could be made that cable ops are doing it to try and bypass the system, he said.

Speed Matters: Perhaps to counter **Verizon's** Quantum FiOS offerings, **Comcast** is launching Xfinity Platinum internet throughout markets in its NE division with speeds of up to 305 Mbps down and 65 Mbps up. At \$ \$299.95 a month, the service includes Xfinity Signature Support (valued at \$9.98 a month) at no extra cost. The solution offers 24/7 tech support, a wireless gateway for home network, a dedicated personal communications consultant and online protection services. Just a reminder that Verizon's recently launched Quantum is a 300Mbps plan with a \$205 a month price tag. Comcast is also doubling the speeds of 2 existing tiers for subs at no additional cost. Xfinity Blast subs will now get download speeds of up to 50 Mbps (formerly 25 Mbps), and Extreme 50 customers will now receive speeds of up to 105 Mbps (formerly 50 Mbps). Comcast is initially launching the offerings across many major markets, including Boston, Hartford, Philadelphia, Pittsburgh, Harrisburg, Wilmington, Baltimore, DC, Richmond, and NJ. Future rollout plans will be determined later, a spokesman said.

Indy Show Notebook: When it comes to escalating programming costs, a lot of fingers are pointed at sports. But according to **Deutsche Bank's Doug Mitchelson**, "ESPN is not the problem." He said **Disney** has a limit on how much it thinks it can charge for ESPN without causing problems in Washington. The bigger problem is RSNs seeking huge increases and only showing a small amount of significant programming, he said. "I think the RSNs are getting out of control." *David Joyce*, who recently joined **ISI Group** from **Miller Tabak**, agreed that sports is a big culprit, but said there's plenty of blame to go around. "It's amazing how many new pilots are produced every year and how many are canceled after 2 weeks," said Joyce. "There are some antennas starting to be raised in DC and the investment community. Something in the business model needs to change." Then you have the **Googles** and **Netflixes** of the world who think they will come in and start producing their own original content. **Needham & Co's Laura Martin** pretty much laughed off the notion. "Google thinks it's in the original programming business with \$100mln. Hulu, which is in on the joke a little more, has committed \$500mln," she said. "An hour of CBS primetime programming is \$2mln." What's more, the cultures of Silicon Valley and Hollywood couldn't be more different, said Mitchelson. "It will be a hard time to get talent to wholeheartedly participate because the money is not really there," he said. Martin noted that Google and Facebook actually charge content providers such as record labels looking to promote music videos and said cable ops should look at ways to replicate that in an authenticated environment. "You want to shift the business deal from you paying for content to content paying you," she said. Short of that, she said ops should at least keep moving toward metering as a way to capitalize on the continued growth of online video. As for OTT competition, "I don't see Netflix as a long-term competitor," she said, predicting that content owners will continue pushing up prices "until [Netflix] can't afford it anymore... the content guys have figured out how much value is destroyed through unbundling." Martin also predicted that all major carriage talks will result in channels going dark for now on because ops know that consumers will give them a few days before switching to another provider. But Mitchelson warned of a "cumulative effect" if such drops happen too often. "We do have to be careful to study this over a period of time," he said. In addition, both Mitchelson and Joyce said home security/monitoring has huge potential for cable, with Mitchelson noting that cable could help grow a market that has been stuck at 20% penetration for years. "The farther out you get, the more interesting it looks," he said. Joyce called it a "no brainer" as an add to the triple play. -- **NBCU** evp, content distribution *Matt Bond* told Indy Show attendees that **Comcast** was able to roughly double TV Everywhere usage by streamlining its credentialing process for subs, but challenges remain when it comes to long-term business models. "It will be important to develop a robust advertising model... so that there's not cannibalization of the advertising model as viewers begin to shift their viewing behavior," he said. "This is going to be a key issue for Nielsen to resolve." He said measurement is vital and predicted that Nielsen will eventually aggregate ratings for up to 3 or 7 days after live viewing across both linear and online. "The good news is that

BUSINESS & FINANCE

they're working on it," he said. "They're not there yet." **Heavy Reading** senior analyst *Alan Breznick* said its surveys suggest that finding a profitable TVE business model is among top distributor concerns (He said the top 5 MSOs could generate an extra \$2.81bn per year if they charged \$5 per month for authenticated access). As for cord cutting, he said "most customers are staying put, at least for now" but "we think cord shaving is a bigger threat to the cable industry than cord cutting," with the bigger risk that subs will cancel premium services and just settle for the basic tier.

Retrans: **DISH** inked a retrans deal with WFMJ in Youngstown, OH (NBC affil). The station had been dark since July 6.

Net Neutrality: Several groups including the **Free State Foundation**, **TechFreedom** and the **Competitive Enterprise Institute**, filed a joint brief Mon at the DC Circuit, urging overturning the **FCC's** net neutrality order, which they claimed violates the 1st and 5th Amendment. "However noble the FCC's intentions, its network-neutrality regulation... benefits content providers at the expense of broadband providers' constitutional rights," the brief said.

Business/Financial: **Viacom** declared a quarterly dividend of \$0.275 per share on both its Class A and Class B common stock. The dividend will be payable Oct 1 for shareholders of record at the COB on Sept 15.

CableFAX Daily Stockwatch

Company	07/24 Close	1-Day Ch	Company	07/24 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	46.94	(0.32)	CONVERGYS:	14.42	(0.06)
DISH:	28.60	(0.32)	CSG SYSTEMS:	17.15	(0.02)
DISNEY:	48.16	0.18	ECHOSTAR:	26.53	(0.17)
GE:	19.97	(0.12)	GOOGLE:	607.57	(7.94)
NEWS CORP:	21.94	(0.06)	HARMONIC:	3.77	(0.15)
MSOS					
CABLEVISION:	14.52	(0.09)	INTEL:	25.00	(0.26)
CHARTER:	72.92	(0.6)	JDSU:	8.93	0.15
COMCAST:	31.40	0.03	LEVEL 3:	20.42	(0.05)
COMCAST SPCL:	30.97	(0.03)	MICROSOFT:	29.15	(0.13)
GCI:	8.90	(0.24)	RENTRAK:	17.58	(0.69)
LIBERTY GLOBAL:	51.69	(0.03)	SEACHANGE:	7.07	(0.29)
LIBERTY INT:	18.40	0.16	SONY:	11.65	(0.05)
SHAW COMM:	18.96	(0.03)	SPRINT NEXTEL:	3.45	(0.12)
TIME WARNER CABLE:	83.36	(0.76)	TIVO:	8.27	0.06
VIRGIN MEDIA:	25.98	0.72	UNIVERSAL ELEC:	12.78	(0.31)
WASH POST:	343.84	(11.67)	VONAGE:	1.77	(0.07)
PROGRAMMING					
AMC NETWORKS:	43.07	0.22	YAHOO:	15.43	(0.33)
CBS:	30.90	0.03	TELCOS		
CROWN:	1.71	(0.01)	AT&T:	34.63	(0.75)
DISCOVERY:	49.10	(0.16)	VERIZON:	43.77	(0.58)
GRUPO TELEVISA:	21.91	(0.29)	MARKET INDICES		
HSN:	41.90	(0.25)	DOW:	12617.32	(104.14)
INTERACTIVE CORP:	48.30	0.15	NASDAQ:	2862.99	(27.16)
LIONSGATE:	13.75	(0.25)	S&P 500:	1338.31	(12.21)
LODGENET:	0.93	0.04			
NEW FRONTIER:	1.56	(0.02)			
OUTDOOR:	7.00	0.03			
SCRIPPS INT:	52.91	(0.48)			
TIME WARNER:	37.88	0.39			
VALUEVISION:	1.91	(0.12)			
VIACOM:	47.73	(0.31)			
WWE:	7.63	0.04			
TECHNOLOGY					
ADVANTAGE:	2.03	(0.02)			
ALCATEL LUCENT:	1.09	(0.03)			
AMDOCS:	29.04	(0.07)			
AMPHENOL:	57.70	(0.4)			
AOL:	27.49	(0.08)			
APPLE:	600.92	(2.91)			
ARRIS GROUP:	12.94	(0.26)			
AVID TECH:	7.00	(0.25)			
BLNDER TONGUE:	1.00	0.00			
BROADCOM:	30.77	(0.21)			
CISCO:	15.12	(0.95)			
CLEARWIRE:	0.92	(0.1)			

CableFAX
INTERNATIONAL
Content Awards

ENTRY DEADLINE: **FRIDAY, AUGUST 3**

CALL FOR ENTRIES!

Get recognized for your work creating and cultivating storytelling concepts that resonate across cultures and countries!

For more information visit:

www.CableFaxInternationalContentAwards.com