

CableFAX Daily™

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What the Industry Reads First

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Suit Up: Opposition Lining Up to FCC Program Carriage Order

Here come the lawsuits. That's our guess on the next step with the FCC Mon releasing its program carriage order, which creates a standstill requirement (*Cfax*, 8/1). No one used the word sue, but the threat is there. "Regrettably, we must now explore other avenues for redress," said NCTA pres/CEO *Michael Powell*. Comcast said the order is "not justified by any record and will result in additional regulatory burdens" and pledged to "review the order and the legal, policy and practical questions resulting from this action." Cable will continue to argue that the '07 NPRM upon which the order is based made no mention that a standstill provision was under consideration and also will focus on constitutional issues. "The FCC's program carriage decision represents an unfortunate trifecta: a flawed process that the FCC stubbornly refused to correct, substantive policy discussions that show little regard for the limits of agency authority or constitutional rights, and a disturbing lack of appreciation of the potential impact of government intervention on consumers or the marketplace," Powell said. While the Commission's sole Republican approved the order in part, *Robert McDowell* dissented to the standstill requirement. Like cable, he said the FCC did not provide adequate notice and opportunity for comment under the Administrative Procedure Act. McDowell cited the US Appeals Court for the 3rd Circuit's recent media ownership decision that found the FCC's intention to revise cross-ownership in an NPRM was too general and open-ended. "Here, the majority adopts rules based on far less specificity provided to the public for its analysis and comment. The 2007 notice does not explicitly, or even implicitly, contemplate standstill arrangements," McDowell said in his dissent. The rules authorize the Media Bureau, upon the filing of a complaint, to grant a temporary standstill of price, terms and other conditions of the existing contract. McDowell and the industry believes that is outside the scope of the FCC's authority. Less controversial are the requirements set forth in the order to establish timelines for filings and decisions on carriage complaints. The Media Bureau must release a decision determining whether the complainant has established a prima facie case within 60 calendar days after the complainant's reply to the defendant's answer is filed. If the Media Bureau decides the merits of a complaint without discovery, it then has 60 days to reach a decision. With discovery, it has 150 days. If a complaint is sent to an ALJ, the judge has 240 days to release an initial decision. The FCC also issued a notice seeking comment on sev-



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eral program carriage issues, including permitting the award of damages in program carriage cases. For its part, the FCC justified the standstill requirement by arguing that the Administrative Procedure Act requirements are satisfied when the final rule is a “logical outgrowth” of the actions proposed. It also said that the program carriage rules, like the leased access requirements, promote diversity in video programming by promoting fair treatment of programmers and thus not content-based rules, which carry strict 1st Amendment scrutiny.

Scoring Play: NFL Net scored big Mon by inking a long-term carriage pact with **Charter** that includes **NFL Red-Zone** and will kick off by the start of the regular season. The deal brings NFL Net back to Charter subs following a nearly 6-year hiatus that started in Dec '05 when the net pulled its signal over a dispute centered on sports tier carriage. Charter represented the channel's 1st MSO affil before the spat, which included a court case and allegations of contract breaches. This time around, Charter will add NFL Net to its Digital View Plus tier and in HD, RedZone to its sports tiers. NFL Net is still without distribution through **Time Warner Cable** and **Cablevision**. *Sports Business Journal* reported Mon that plans for the channel's future may soon change as part of the league's potential desire to add 8 additional Thurs night regular season games to augment NFL Net's current late-season octet. The pub said the league may grant the winning media partner management duties of the net or even an ownership stake.

Advertising: CAB pegs cable's upfront ad dollars for '11-'12 at \$9.3bln, a 16% raise from last year's record \$8mln and surpassing broadcast's upfront. “The US advertiser's mandate spending for more cable in the past 2 upfront markets, up 38% with \$2.6bln in additional ad spend, is a market-wide testimonial to the product-selling power of cable's video brands” said CAB pres/CEO *Sean Cunningham*. “It's clear that cable brands are the lead media choice in the marketer's quest for sales growth, new customers and deeper connections to consumers”

Carriage: Starz Ent's 24/7 movie net **Encore Espanol** launched Mon on **U-verse TV** and **FiOS TV** as part of the Encore family of services. Starz is also pitching the commercial-free channel as an addition to ops' Spanish-language tiers in certain markets. -- **U-verse** also intro'd 9 other channels, including **Fox Soccer HD**, **Go!TV HD**, **Nat Geo Wild HD**, **Fox Sports Arizona HD**, **fuse HD** and **Nat Geo Mundo**. -- **Al Jazeera English** earned carriage on **Time Warner Cable** in the NYC region, where it's also expected to launch on **FiOS TV** in the coming days. -- **Cable One** will add **Big Ten Net** to its expanded basic tier in NE by Sept 1. -- *Byron Allen's Entertainment Studios* announced a deal with **Caribbean Cable Co-op**, which will offer all 6 of its HD channels (**Cars.TV**, **Comedy.TV**, **ES.TV**, **MyDestination.TV**, **Pets.TV** and **Recipe.TV**) to its members. The co-op is a buying cooperative for the English speaking cable companies in the Caribbean and Atlantic basins. -- **Sportsman Channel's** latest HD launch: **Comcast Little Rock**.

Branding: As we and many others expected, **Versus** will be renamed **NBC Sports Net** come Jan 2. A redesigned **NBC Sports** logo with a larger peacock and new fonts is also part of the rebrand, which NBC Sports Group chmn *Mark Lazarus* said represents “more than just a name change for Versus. It's a complete repositioning of the brand to provide value for marketers, consumers as well as all our affiliates and distributors.” The timing centers on several marquee events NBC plans to use to promote the change, including the NHL Winter Classic (Jan 2) and Super Bowl XLVI (Feb 5) on NBC.

Inside the Beltway: NAB breathed a sigh of relief Mon over the news that the debt ceiling compromise doesn't include any spectrum provisions, unlike some earlier legislation being bounced around. “We are pleased that the negotiated debt ceiling bill, to be considered by Congress, does not threaten free and local broadcasting. NAB will continue working with lawmakers on incentive auction legislation that is truly voluntary,” said NAB chief *Gordon Smith*. Meanwhile, the FCC announced it has reached arrangements with **Industry Canada** and **Mexico's Secretariat of Communications and Transportation** (SCT) for sharing commercial wireless broadband spectrum in the 700 MHz band along the U.S.-Canadian and U.S.-Mexican border areas. The FCC also reached an arrangement with Industry Canada for sharing spectrum in the 800 MHz band as a way to help support commercial broadband services and public safety mission-critical voice communications.

Technology: An **Apple TV** software upgrade allows owners to purchase TV shows through the set-top and re-download them on other iOS devices, and shows purchased through iOS devices will automatically show up as available on Apple TV. Also added was free access to **Vimeo**, which features user-uploaded content. -- Now available through

Best Buy are Insignia connected TVs featuring the **TiVo** user interface and cross-media search elements. DVR functionality is not included.

Programming: 3net's following **Discovery Channel's** annual "Shark Week" stunt with "Sharks 3D" (Aug 7), a 24-hour event to be hosted by *Jean-Michel Cousteau*. -- **ESPN Deportes** inked a deal to feature Sat sports block "Clasicos de ESPN Deportes" on Spanish Broadcasting System's **MegaTV**. -- **HBO** doc "Gloria: In Her Own Words" (Aug 15) presents a biological portrait of women's rights advocate *Gloria Steinem*. -- The Wed (10pm ET) edition of **Spike's** "Deadliest Warrior" marks the show's 1st-ever live event (real-time twitter interaction, new footage, etc) and centers on the "US Army Rangers vs. North Korean Special Operations Forces" match up. -- **ABC Family** ordered 22 new eps of "Switched at Birth," the one hour drama about two teenagers who discover they were switched as newborns in the hospital. "We're so thrilled to see this series become a break-out hit this summer and become a key component of our programming lineup into next year," said ABC Family pres *Michael Riley* in a statement. The summer finale airs Mon at 9pm, with the series expected to return in early 2012. -- **MSNBC** debuts "A Stronger America: Making the Grade," a 2-hour long discussion on topics including parenting and early education, how to help our students compete on a global scale and the effects of the economy on education and opportunity. The special will air on Aug 14 at noon and be hosted by *Tamron Hall* of MSNBC and *Jeff Johnson* of **TheGrio.com** and MSNBC.

Milestone: Happy 30th birthday to **MTV**, which has changed quite a bit from the ground-breaking music channel it started out as in the 80s. Perhaps MTV should instead be now known as RTV, what with its steady feature of reality programming, but inarguable is the net's recent ratings resurgence and reconnection to younger Americans. Net pres *Stephen Friedman* celebrated the occasion by ringing the NYSE opening bell Mon morning with other execs and artist *Usher*.

On the Circuit: **Discovery's** hq in Silver Spring is hosting 50 educators from across the country attending the **Siemens STEM Institute** from Jul 31-Aug 5. Presented by Discovery Education and the **Siemens Foundation**, the STEM Institute is a one-week immersion program for educators promoting hands-on, real-world integration of science, technology, engineering, and math (STEM) in the classroom.

Honors: **USA** and **RSA Films'** short doc "Wyckoff Place" received the Best Documentary award at the L.A. Shorts Fest, the largest short film festival in the world. Part of USA Network's Character Project, an ongoing artistic initiative exploring the unique characters of the US, the film centers on a group of children from a Brooklyn apartment building who become friends despite their diverse backgrounds. The film was directed by *Lauri Faggioni*.

Nat Geo at TCA: **Nat Geo** continued its TCA tradition of hitting critics with plenty of new series and standalone specials, touting news-driven fare on its flagship and featuring more animalistic content on **Nat Geo Wild**. On the Wild side were shows like "Outback Wrangler" in which *Matt Wright* saves animals in the outback, "Deadly 60" challenging explorer *Steve Backshall* finds the planet's 60 most deadly creatures (Why 60? Why not!!), Big Cat Week in which several specials will explore the predators, and "The Incredible Dr. Pol" featuring a vet who cares for all manner of pets and livestock. What's their most dangerous encounter? "I feel far more frightened in a big city than I ever do being out in the wild," said Backshall. It's also about education for these guys. "So many people do not know what's going on on the farm in rural America," said Pol. "I wanted to show the other way, where the people and the animals really work together to make a living." For **Nat Geo Channel**, "Border Wars" (fall) will take an amazingly detailed look at what U.S. border agents go through as they fight terrorists, smugglers and others trying to gain illegal entry. It looks like powerful stuff. One entertaining panel involved "Rocket City Rednecks" and "Mad Scientists," which both also premiere this fall. Rednecks involves self-professed Hillbillies as they attempt to fashion rockets out of household supplies (yes, they're actually NASA rocket scientists), and Scientists follows the hunt for amateur inventors with bizarre creations. Said rocketeer *Travis Taylor*: "We are not just building rockets and blowing things up. We usually try to pick a problem" and solve it. Speaking of problems, Mad Scientists host *John Bowler* spent much of the panel trying to save a trash can someone had fashioned into a robotic beer-retrieval unit and that tried repeatedly to roll itself off the stage in an apparent suicide attempt. He eventually talked it down. Nat Geo also showcased what could be a significant contribution to history with the 1-hour special "George W. Bush: The 9/11 Interview" (fall premiere) in which **Partisan Pictures** producer/director *Peter Schnall* sat down with the former U.S. President for some 4 hrs over 2 days to talk about nothing but 9/11 in anticipation of the 10-year anniversary next month. It's part of Nat Geo's full week of content branded "Remembering 9/11," which runs from Aug 28-Sept 3. "I feel that the audience will come away from this film having a deeper understanding, sort of a bigger window of what it must have been like to have been the President of the United States during a moment when the United States was under attack, when the President of the United States was on the run,

when we didn't know who the enemy was for the first few hours, when we had to make decisions at 40,000 feet about whether or not to shoot down commercial airplanes." The clip shown to critics was chilling. And that was only 5 min. But the award for the scariest clip shown goes to "Pint Sized Preachers" (Aug 17) in which kids as young as 4 scream their way through firey sermons to real congregations. These kids'll make you want to repent... or something.

Discovery at TCA: Discovery pres/CEO *David Zaslav* once again trumpeted ratings growth at **Investigation Discovery** (yeah, we get it... Henry rocks.. geez), and the net bowed 2 new docs: "Sin By Silence," (premieres Oct) featuring women who have been incarcerated for killing their spouses yet since then have become outspoken activists against domestic violence, and "Gone" about the disappearance of an openly gay male and the search for answers. ID chief *Henry Schleiff* also announced series "Dark Minds," which follows 3 real-life characters—one of whom is incarcerated and remains unnamed and unseen—who together revisit unsolved homicides. "Big Law: Deputy Butterbean" (Aug 9) on ID and follows former heavyweight boxer *Eric Esch*, known as "Butterbean," as he cleans up the streets of his hometown as a deputy for the Walker County Sheriff's office. Though cop shows are all over TV, Butterbean said, "I did it before the TV. I did it because I care about my town. The only bad thing about the show is more people will want to live there." "You see a lot of bad cop stories," said Schleiff. "To some extent it's our attempt to tell the good cop story. You don't always see that." **The Hub** pres/CEO *Margaret Loesch* touted 165% growth in the 9 months since the network's rebranding (formerly Discovery Kids), with 9 new original series including "Majors & Minors" (Sept 23) following 12 young aspiring musicians as they are mentored and trained by top artists such as *Brandy*, *Avril Lavigne* and *Adam Lambert*. "At the end of the season there will be a valedictorian, but no one will be voted off the show," said exec producer *Gary Randall*. The songs created by the cast throughout the 15 weeks will be available for download from **iTunes**, as "their first singles." Discovery Channel's "Weed Wars" (premieres Nov) follows the family-run business of Harborside Health Center, the country's largest dispensary for medicinal cannabis, as they grow, harvest and administer the plant to its clients. "Our number one concern is to be portrayed as how we really are," said *Steve DeAngelo*, founder and exec director of the center. "We chose Discovery because they showed us they would actually do that. We're very grateful for this opportunity to bring our message to the American people." "The cannabis is the glue that holds all the characters together," said Harborside general manager *Andrew DeAngelo*, "but it's character-driven, a family story." In **Discovery Channel's** much anticipated mega-series "Curiosity" (Aug 7) A-list hosts—*Morgan Freeman*, *Maggie Gyllenhaal* and *Eli Roth*, to name a few—will pose and investigate provocative questions, such as how me might survive an alien attack and whether God created the universe. *Steven Hawking* tackles the latter topic in the first week. Meanwhile, **Animal Planet's** new six-part series "Saved" (fall) tells inspiring stories of people's lives being transformed by their pets. *Patrick Major*, for example, survived kidney disease and climbed out of a depression, thanks to the relationship he developed with his dog, Sammy Davis. Interestingly, Sammy is his first pet, which made the experience all the more redemptive. "Growing up, my parents said we were allergic to dogs. But now I think that's not true," he said.

OWNing It at TCA: Now the CEO of **OWN**, *Oprah Winfrey* announced her new M-F primetime show, "Own Your Life (the Oprah class)" (Oct 10), which will take the Oprah show library and repackage the episodes. Winfrey, who will host, said the goal is to "teach people how to live their best lives," and "embrace the idea of creating the world's biggest classroom." Winfrey also told critics that she's firmly at OWN's helm and will focus on "making the network what we know it can be." A big concern was "aligning the teams. And we've done that" with the appointments of *Sheri Salata* and *Erik Logan*. An additional focus is "the unity of **Harpo** and OWN, aligning them together." Oprah then introduced the *Rosie O'Donnell* panel for her new show "The Rosie Show," which premieres Oct 10 as a lead-in to "Own Your Life." Said Winfrey on the choice to go with the show, "she could have gone with any other big broadcaster, and she chose OWN." O'Donnell said her agent wasn't exactly psyched: "You know how agents care about what you want to do, and not the finances? Well my agent was thrilled I wanted to go to basic cable instead of one of the major networks." Another motivation for not going with the bigger guys: "when they threw *Conan* under the bus after so many years of service." The talk show, dubbed a "talk variety reality show" by O'Donnell, will take a different format. She'll interview one celebrity per show, start with an upfront part with her own brand of comedy, have a few segments in the middle and a kitschy game at the end. In addition, there will be a reality component, adding a "behind-the-scenes element." Hoped-for guests, said O'Donnell, are *Russell Brand* and *Adele*. On whether O'Donnell will do any product placement this time around, she said she'll showcase products she knows and loves and that she's talked to the companies she'll incorporate into the show.

People: **TV Guide Net** evp, programming and marketing *Diana Robina* has left, as 1st reported by *Deadline.com*.

BUSINESS & FINANCE

TV Guide Net chmn *Allen Shapiro* will head up programming. -- Former **Bravo** exec *Sherry Pitkofsky* joined **WE** as vp, partnership marketing, promotions and public affairs. -- **ESPN** elevated *Chuck Pagano* to the new position of evp/CTO. -- **Universal Sports Net** tapped *Elliott Gordon* as vp/gm, digital media. -- **Verizon** evp, enterprisewide strategic tech initiatives *Richard Lynch* announced his retirement, effective Aug 19. -- **News Corp** upped *Andrea Zappia* to CEO, **Sky Italia**.

Business/Finance: **Miller Tabak** upgraded **Charter** to “buy” from “neutral,” upping its 1-year price target to \$65 from \$63 on the recent pullback and the anticipation of “decent” RGU metrics when the MSO reports 2Q earnings Tues. The firm expects Charter to post basic losses of 32K, digital video gains of 39K and residential data gains of 29K. -- **Windstream** agreed to acquire business comm services provider **Paetec Holding Corp** in a deal valued at approx \$2.3bln that creates a national network with approx 100K fiber route miles. Paetec shareholders will receive 0.46 shares of Windstream stock for each Paetec share owned, meaning Windstream expects to issue approx 73mln shares valued at \$891mln. -- **Charter** completed its purchase of **Windjammer Comm’s** broadband systems serving approx 17K customers in AL and GA.

CableFAX Daily Stockwatch

Company	08/01 Close	1-Day Ch	Company	08/01 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	50.45	(0.23)	BLNDER TONGUE:	1.65	(0.04)
DISH:	29.88	0.25	BROADCOM:	37.11	0.04
DISNEY:	38.44	(0.18)	CISCO:	15.83	(0.14)
GE:	17.97	0.06	CLEARWIRE:	2.11	(0.06)
NEWS CORP:	16.59	0.09	CONCURRENT:	6.26	(0.17)
MSOS					
CABLEVISION:	24.04	(0.32)	CONVERGYS:	12.15	(0.29)
CHARTER:	53.28	(0.72)	CSG SYSTEMS:	17.68	(0.08)
COMCAST:	23.85	(0.17)	ECHOSTAR:	33.57	0.11
COMCAST SPCL:	23.14	(0.2)	GOOGLE:	606.77	3.08
GCI:	11.43	0.08	HARMONIC:	5.55	0.12
KNOWLOGY:	13.55	(0.18)	INTEL:	22.24	(0.09)
LIBERTY CAPITAL:	80.72	0.86	JDSU:	13.13	(0.01)
LIBERTY GLOBAL:	41.52	(0.28)	LEVEL 3:	2.17	(0.01)
LIBERTY INT:	16.27	(0.13)	MICROSOFT:	27.27	(0.13)
SHAW COMM:	22.49	(0.05)	MOTOROLA MOBILITY:	21.96	(0.42)
TIME WARNER CABLE:	72.93	(0.38)	RENTRAK:	16.16	(0.38)
VIRGIN MEDIA:	26.11	(0.35)	SEACHANGE:	9.60	0.04
WASH POST:	399.16	(3.14)	SONY:	25.07	(0.03)
PROGRAMMING					
AMC NETWORKS:	37.30	0.11	SPRINT NEXTEL:	4.29	0.06
CBS:	27.28	(0.09)	THOMAS & BETTS:	47.58	(1.2)
CROWN:	1.70	UNCH	TIVO:	9.37	(0.03)
DISCOVERY:	39.22	(0.58)	UNIVERSAL ELEC:	23.84	0.42
GRUPO TELEVISIA:	22.20	0.01	VONAGE:	3.73	(0.28)
HSN:	32.71	0.02	YAHOO:	13.10	UNCH
INTERACTIVE CORP:	41.49	0.10	TELCOS		
LIBERTY:	39.11	(0.76)	AT&T:	29.52	0.26
LIBERTY STARZ:	76.53	(0.23)	VERIZON:	35.87	0.58
LIONSGATE:	7.11	0.01	MARKET INDICES		
LODGENET:	2.71	(0.12)	DOW:	12132.49	(10.75)
OUTDOOR:	6.93	0.28	NASDAQ:	2744.61	(11.77)
SCRIPPS INT:	46.27	(0.07)	S&P 500:	1286.94	(5.34)
TIME WARNER:	35.08	(0.08)	TECHNOLOGY		
VALUEVISION:	7.33	(0.16)	ADVANTAGE:	2.59	(0.03)
VIACOM:	54.39	(0.2)	ALCATEL LUCENT:	3.78	(0.27)
WWE:	9.82	(0.25)	AMDOCS:	31.00	(0.53)
TECHNOLOGY					
ADDVANTAGE:	2.59	(0.03)	AMPHENOL:	48.38	(0.51)
ALCATEL LUCENT:	3.78	(0.27)	AOL:	16.93	(0.25)
AMDOCS:	31.00	(0.53)	APPLE:	396.75	6.27
AMPHENOL:	48.38	(0.51)	ARRIS GROUP:	11.74	(0.26)
AOL:	16.93	(0.25)	AVID TECH:	13.05	(0.04)
APPLE:	396.75	6.27	BIGBAND:	1.90	(0.05)
ARRIS GROUP:	11.74	(0.26)			
AVID TECH:	13.05	(0.04)			
BIGBAND:	1.90	(0.05)			

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EYE ON INNOVATION

A Meaningful Spring Into Fall

Bounce TV evp, distribution *Jeff Wolf* pitches the diginet as the African American version of **Univision**, a particularly poignant description since Wolf can't fathom why minority-leaning programmers have been so myopically focused on Hispanic viewers at the expense of African Americans when the US counts approx 40mln of the former group and 45mln of the latter.

Not that he's complaining.

A TV environment featuring a disproportionate 26 Hispanic channels awards Bounce TV "a running head start," said Wolf, and helps explain how Bounce has been able to clear approx 40% of the US ahead of its Sept 26 launch as what stakeholder *Martin Luther King III* calls the 1st-ever independently owned and operated broadcast TV net featuring African Americans. Current partners include **Belo**, **Nexstar** and **LIN TV**, for carriage in cities such as Houston, Memphis, Cleveland/Akron and Louisville. Additional announcements are imminent, said Wolf, and the launch goal of 50% coverage is in sight. In fact, given the manner in which he describes the current flow of operations, perhaps the net should be called (on a) Roll TV.

Advertisers "have come after us big," he said, and "everybody wants to be in business with us on the production side."

Approx half of Bounce's ad time will be available for insertion of local advertising by affils, and initial content will include local newscasts and live concerts before original programming becomes integrated down the road. But it's the coupling of approx 300 movies from **Sony Pictures TV** and **NBCU Domestic TV Distribution** with sports content such as boxing and CIAA football that may drive Bounce's ultimate achievement.



"Clearly our success lies in cable carriage," said Wolf. "Unique sports gives cable MSO's reasons to carry us."

Bounce will receive immediate cable play in Houston through Belo. Broadcasters are able to negotiate with cable ops for carriage of diginets, and Wolf said all of Bounce's deals to date include distribution via spectrum earmarked strictly for African American broadcast nets.

"We are kind of like a partner network" to local broadcasters, he said.

Bounce's expansive film slate, meanwhile, is expected to resonate with African American viewers and test the particular mettle of BET. The demo is particularly fond of movies, said Wolf—research shows it does overindex in premium net subscriptions—and **BET's** movement away from the genre presents a potential advantage.

"BET isn't thrilled that we've cornered the movie market," said Wolf. "Blacks are insatiable about movies... we've got 'em. Our goal is to zig when [BET's] zagging."

BET didn't reply to a request for comment.

In terms of audience, Bounce is specifically targeting 25-54s; in terms of additional broadcast partners, those located in markets heavily populated by African Americans.

Wolf is quick to point out, however, that Bounce TV "isn't necessarily just for African Americans."

Indeed, movies and sports enjoy broad appeal. Yet Wolf knows the real opportunity—for advertisers, broadcasters, cable ops and even Bounce itself—rests with the 45mln-stong demo he deems underserved.

"This is an important and meaningful network," he said.

Think Univision through a very different lens.

-Chad Heiges

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