

CableFAX Daily™

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What the Industry Reads First

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Game Changer: Cablevision DVR Win Could Have Big Repercussions

A federal appeals court's decision that could pave the way to **Cablevision** rolling out network DVR service has captured the attention of the industry. On Mon, the 2nd Circuit Appeals Court reversed a lower court ruling that said the MSO's remote storage DVR would directly infringe on programmers' rights to reproduce their copyrighted works. The court lifted the injunction and remanded the case back to the Southern District of NY for further proceedings. Programmers and studios, including **CNN**, **Cartoon**, **ABC**, **Paramount** and **Twentieth Century Fox**, filed the lawsuit in '06, claiming Cablevision's planned DVR service is nothing more than an unauthorized VOD offering. The appeals court sided with Cablevision's argument that there is no copyright violation because the customer chooses what to record and store, not the cable operator. Programmers are expected to challenge the ruling. "We respectfully disagree and are considering the appropriate next steps in this matter," a Turner spokesperson said. **MPAA** said it's assessing the decision and reviewing options. Network DVRs, which would record and store programming at the headend, would be significantly cheaper for cable operators as they wouldn't have to buy expensive DVR boxes for each DVR HH. Estimating that DVRs account for as much as 10% of capital spending for the major MSOs, **Sanford Bernstein's Craig Moffett** published a research note that suggests this could be a huge differentiator for cable vs DBS. "Under the ruling, cable operators will not only be able to offer DVR functionality to all digital subscribers—whether they currently have a DVR or not—but also to every TV outlet in the house that has a digital set top," Moffett wrote. Of course, the flipside is that increased DVR penetration means increased ad skipping, which could be especially bad for broadcast nets since they are 100% ad-supported.

Dish Dump: **DISH** shares plummeted Mon after the DBS operator reported the 1st-ever decline in subscribers for the satellite industry. (Had to happen eventually, right *Charlie?*) "It's not a good number, and obviously, we're disappointed," CEO **Charlie Ergen** said of **DISH's** 2Q loss of 25K subs. He told analysts that the slowing economy, piracy, competitive offerings—particularly from the telcos—and marketing woes contributed to the loss. "The 3 things we can do something about, we've got things in progress. We have action plans to deal with all this," Ergen said. Wall St was spooked though, with shares dropping more than 5% during the day. The sub loss comes on the heels of a 1Q with lagging sub metrics and notification that **AT&T** is not renewing its contract with **DISH**. The telco may end up inking a new deal with **DISH** or signing one with competitor **DirecTV**. "We don't know where they stand," Ergen said. "We'll be ready with **AT&T** as a partner, or we'll be ready to compete. We think we can do either one." **Sanford Bernstein** told clients that **DISH** looks "more than ever like a company poised on the brink of secular decline." For the Q, net profit rose to \$336mln from \$224.2mln, while rev rose 5.6% to \$2.91bln. Subscriber acquisition costs rose 8.3% to \$699, while churn remained high at 1.87%.

Dual Must Carry Waiver: **FCC** chmn **Kevin Martin** is hoping commissioners can vote a few items on circulation this month, but if they don't, the Commission would hold an open meeting on Aug 22. If the **FCC** does end up holding a formal

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meeting, it will probably be conducted via teleconference, Martin told reporters Mon. One of the items expected to be approved is the long-awaited order that would exempt small cable systems from passing along must-carry broadcasters' digital SD and HD signals along with their analog signals post-transition. As previously reported by **Cfax**, the order proposes a blanket exemption for systems that are 552Mhz and smaller or have 2500 subs or fewer—provided the systems are owned by an operator with less than 10% of the pay TV market (**Cfax**, 7/9). That requirement appears aimed at ensuring that the country's 2 largest ops, **Comcast** and **Time Warner Cable**, can't benefit from the 3-year exemption.

Competition: **Verizon** and a pair of labor unions covering 65K **VZ Telecom** employees in the Northeastern and Mid-Atlantic states continue talks after contracts expired Sat. Both sides say a strike is unlikely, as progress has been made toward a deal. -- **AT&T** has launched **U-verse Voice** in San Antonio, completing the telco's area triple-play offering.

Earnings: **Insight's** quarterly results were again all about customer gains, highlighted by the MSO's highest 2Q net additions ever for basic subs (3.8K), digital (9.2K) and HSD (12.4K). In 1Q, Insight posted its highest growth Q ever for basic, HSD and phone adds. 18.7K phone customers were also added in 2Q, and overall rev grew 16% to \$215mln. Total RGUs tallied 1.75mln (+18% YOY) on Jun 30, including 693K basic, 425K HSD and 230K phone. Digital penetration stands at 61%, phone at 19%.

Carriage: **Midcontinent** has agreed to launch **Big Ten Net** on systems in ND, SD and western MN beginning Aug 15. It will offer the net on expanded basic in conference state MN and on a digital tier elsewhere. -- **Grande Comm** has added **NFL Net HD**.

Red Card: **DISH** yanked soccer net **GoITV** from its America's Top 250 and Dish Latino programming packages Fri afternoon, citing an impasse in discussions for distribution renewal. "The network refused to deliver an offer for carriage that fairly reflects its overall ratings performance and value," said DISH in a release. Countered GoITV COO **Rodrigo Lombello**: "Dish Network has demonstrated total disregard for independent networks, the millions of soccer fans we represent, and minority-owned businesses by this action."

Affil Relations: Included on **NBCU's Olympics** affil team are **Comcast**, **Time Warner Cable**, **Bright House**, **Mediacom** and **Bresnan**. Among the enhanced offerings for participating MSOs: on demand pre-Games and in-Games content; 800 hours of HD coverage across USA HD and other nets; broadband content; and select foreign-language coverage.

Technology: **ZeeVee** has started shipping its **ZvBox**, a device allowing customers to view any online content through multiple household HDTVs. **Amazon** and **BestBuy** are among the retail partners for the device, priced at \$499.

Public Affairs: **Lifetime** will launch a cross-country bus tour called "Every Woman Counts" in order to encourage women to vote in the upcoming election. The tour, which will stop in 11 cities, will feature musical acts, voter registration and will allow women to upload political opinion videos onto Lifetime's YouTube site. Lifetime svp public affairs **Toby Graff** called this election campaign "the biggest one yet—being on-air, online and the bus tour."

Honors: **WICT** named **Cox** svp, operations **Jill Campbell** as its Woman of the Year; and **Comcast Spotlight** svp, marketing and comm **Vicki Lins** and **TLC** pres/gm **Eileen O'Neill** each as a Woman to Watch. **ESPN** won the org's Tribute Accolade in the doc/bio category, **Lifetime Nets** in the drama/musical/variety/comedy category. The awards

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BUSINESS & FINANCE

will be presented Nov 20 at the 24th Annual WICT Benefit Gala in DC.

Obit: Longtime **Turner Sports** broadcaster *Skip Caray* died in his sleep Sun at age 68. Caray's "legendary calls and trademark wit on **TBS** baseball are what resonated most with fans nationally and will not soon be forgotten," said Turner in a statement.

People: **NCTA** is promoting *Rita Lewis* to svp from vp, govt relations, effective Sept 1. She succeeds *Steve Vest*, who is departing to join **Time Warner** as svp, global public policy. Lewis joined NCTA Jan 2 from **The Washington Group**. -- *John Callahan* has joined **ActiveVideo Networks** as its CTO. Callahan was previously with **Time Warner Cable**, where he led the StartOver team and several other Time Warner projects. -- Appointed co-CEOs at **Motorola** were *Sanjay Jha* and *Greg Brown*, who earned respective oversight of the company's mobile devices and broadband mobility solutions segments. -- **Scripps Nets Interactive** named *John Lansing* evp. -- **MTVN's** Ent Group promoted *Rebecca Keszowski* to vp, digital integrated marketing.

Business/Finance: **Time Warner** is expected to announce Wed the completion of necessary restructuring to separate **AOL's** dial-up-access business from its advertising and content business, according to *WSJ*, setting the table for a sale of 1 or both divisions.

CableFAX Daily Stockwatch

Company	08/04 Close	1-Day Ch	Company	08/04 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
BRITISH SKY:	35.22	0.29	AMPHENOL:	46.37	(0.57)
DIRECTV:	26.56	(0.36)	APPLE:	153.23	(3.43)
DISHNEY:	30.37	0.29	ARRIS GROUP:	9.63	(0.3)
ECHOSTAR:	27.91	(1.05)	AVID TECH:	22.48	(0.23)
GE:	28.17	(0.04)	BIGBAND:	3.95	(0.45)
HEARST-ARGYLE:	19.93	0.11	BROADCOM:	24.24	0.25
ION MEDIA:	1.44	0.00	C-COR:	11.00	0.00
NEWS CORP:	14.57	0.17	CISCO:	21.99	0.00
MSOS					
CABLEVISION:	25.93	0.57	COMMSCOPE:	43.24	(2.38)
CHARTER:	1.14	0.00	CONVERGYS:	12.56	(0.29)
COMCAST:	20.55	0.20	CSG SYSTEMS:	18.42	(0.37)
COMCAST SPCL:	20.44	0.15	ECHOSTAR HOLDING:	32.48	0.48
GCI:	8.96	(0.43)	GOOGLE:	463.00	(4.86)
KNOLGY:	10.34	0.18	HARMONIC:	7.51	(0.35)
LIBERTY CAPITAL:	15.48	0.13	JDSU:	10.86	(0.2)
LIBERTY ENTERTAINMENT:	24.22	(0.19)	LEVEL 3:	3.11	(0.12)
LIBERTY GLOBAL:	28.97	0.14	MICROSOFT:	25.28	(0.16)
LIBERTY INTERACTIVE:	13.50	(0.09)	MOTOROLA:	9.82	1.01
MEDIACOM:	5.41	(0.34)	NDS:	57.40	0.00
SHAW COMM:	20.59	(0.4)	NORTEL:	6.19	(0.33)
TIME WARNER CABLE:	28.50	(0.35)	OPENTV:	1.77	(0.07)
VIRGIN MEDIA:	11.20	0.10	PHILIPS:	33.01	0.50
WASH POST:	607.00	8.25	RENTRAK:	14.22	(0.24)
PROGRAMMING					
CBS:	16.01	0.03	SEACHANGE:	7.20	(0.3)
CROWN:	4.27	(0.02)	SONY:	37.02	(0.81)
DISCOVERY:	18.50	(0.55)	SPRINT NEXTEL:	8.13	0.04
EW SCRIPPS:	6.56	(0.03)	THOMAS & BETTS:	41.47	0.28
GRUPO TELEVISA:	21.92	(0.71)	TIVO:	7.37	(0.25)
INTERACTIVE CORP:	17.42	0.17	TOLLGRADE:	6.16	0.96
LIBERTY:	43.20	(1.17)	UNIVERSAL ELEC:	23.89	0.93
LODGENET:	3.64	(0.49)	VONAGE:	1.39	0.00
NEW FRONTIER:	3.40	(0.18)	WEBB SYS:	0.04	0.00
OUTDOOR:	7.30	0.09	WORLDGATE:	0.30	0.00
PLAYBOY:	4.45	(0.27)	YAHOO:	19.38	(0.42)
RHI:	11.52	(1.19)	TELCOS		
SCRIPPS INTERACTIVE:	40.82	0.72	AT&T:	30.17	(0.27)
TIME WARNER:	14.40	0.17	QWEST:	3.54	(0.18)
VALUEVISION:	2.91	(0.05)	VERIZON:	33.83	(0.17)
VIACOM:	28.75	0.73	MARKET INDICES		
WWE:	16.96	0.40	DOW:	11284.15	(42.17)
TECHNOLOGY					
3COM:	1.86	(0.01)	NASDAQ:	2285.56	(25.4)
ADC:	9.10	(0.45)			
ALCATEL LUCENT:	6.07	0.07			
AMDOCS:	29.47	(0.38)			

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