

CableFAX Daily™

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What the Industry Reads First

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A la Carte Showdown: Martin, Civil Rights Groups Square Off

FCC chmn *Kevin Martin* offered an apology of sorts after civil rights groups blasted him Wed for published comments in which he stated that civil rights organizations opposed a la carte regulations because of financial relationships some have with TV programmers and distributors. "I would like to express that I have the utmost respect and appreciation for the work and views expressed by your organizations," Martin said in a letter to civil rights groups that contacted him requesting a public apology and retraction. "I apologize if my recent comments led some to believe otherwise." Martin said he was referencing a '04 **Center for Public Integrity** study concluding that "grass roots" opposition to a la carte is "actually a highly sophisticated lobbying campaign where seemingly disinterested 3rd parties—like nonprofits and legislators—are spreading the anti-a la carte message." The Center adds that these parties actually have much to gain, pointing to hundreds of thousands of dollars in donations and other benefits "showered by cable companies on some of these nonprofits." The heads of the **Black Leadership Forum, Hispanic Federation, Labor Council for Latin American Advancement, League of United Latin American Citizens, Natl Black Chamber of Commerce, Natl Congress of Black Women** and **Hispanic Telecommunications and Technology Partnership** wrote Martin, saying there is near unanimity in the civil rights community that a la carte would hurt cable programming diversity. "As you are well aware, many civic organizations seek financial support from numerous supporters," the civil rights groups wrote. "You have never publicly questioned this widespread practice with respect to other organizations, and we are shocked that you would single out civil rights organizations in the disrespectful manner in which you did." The groups said they don't take the "groundless and outrageous accusation" lightly. In his same-day response, Martin spent most of his letter bolstering a la carte, arguing that consumers—particularly minorities—would benefit from such a model. He pointed to a *Washington Post* story about **Comcast's** decision not to carry digital multicast channel **V-ME**, Maryland's 1st public all-Spanish language channel, and to **Black Family Channel's** difficulty in obtaining carriage and its ultimate decision to become an online network. A spokesman for the civil rights groups was still assessing Martin's response at press time.

At the Portals: FCC chmn *Kevin Martin* has floated an order that would require dual must-carry for cable operators in early '09, according to sources familiar with the matter. The proposed order, which would require ops to carry both analog and digital versions of must-carry TV stations, is making the rounds less than a week after reply comments were due. -- The **FCC** scheduled its next public meeting for Sept 11, 9:30 am. No agenda was available at presstime.

Summer Heat: Cable's aggressive play for summertime eyeballs continues to pay handsome dividends—and broadcast nets are footing much of the bill, according to **Turner's** analysis of **Nielsen** data. Ad-supported cable's HH share of prime viewing is a record 62.8% this summer (Jun-Aug 19), a 5-year gain of more than 9 percentage points. By contrast, the share held by the top 6 broadcast nets has fallen more than 8 points over the same span, to land at



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27.7% this year. Among adults 18-49, the respective prime shares are 52.4% and 24.2%, marking the 1st time cable's share in the demo is more than double broadcast's. Turner research chief *Jack Wakshlag* cited content quality as a driving factor, with cable "doing it better in the summer." And when comparing top summer cable shows in '02 to those from this year (measured by P2+), Wakshlag found that 7 current shows displaced older ones in a combined top 10, with a 76% improvement found in the best rating (4.5mln for **USA's** "Monk" in '02; 7.91mln for **TNT's** "The Closer" this year). Meanwhile, only 2 broadcast series hit the combined top 10, while the best rating actually fell 25% (14.76mln vs 11.1mln). **Lifetime's** research boss *Tim Brooks* predicted the trend will last until a top cable series bests a top broadcast show in ratings. "With 7 [cable] shows over a 3 rating this summer, we're close to a crossover point," said Brooks. Among ad-supported cable nets, **USA** (2.78mln) is on pace to win the season in prime over **TNT** (2.46mln), **TBS** (1.71mln), **Lifetime** (1.57mln) and **Fox News** (1.45mln). **Nickelodeon** (2.22mln) leads summer total day, trailed by **Nick at Nite** (1.31mln), **TNT** (1.29mln), **Cartoon Net** (1.22mln) and **Adult Swim** (1.22mln). **fuse** (+120%), **Discovery Times** (+77%) and **Style Net** (+76%) have delivered the greatest Y-over-Y prime growth; **Hallmark** (-26%) and **ESPN Classic** (-23%) lead the decliners.

Competition: **DISH Network** will add 9 new HD PPV channels on Sept 12.

In the States: **Cox** is deploying in northern VA a **BigBand Networks** switched digital video solution aimed at expanding HD capacity. Rollout is planned for additional markets, including both Moto and S-A set tops. -- IN State Rep *Dave Crooks* asked the state's Utility Consumer Counselor to assist in **Big Ten Network** and cable operator negotiations. "I do not have a position as what the price should be for the network or how the cable companies in Indiana choose to distribute it. I do, however, feel strongly that my constituents want to see Indiana Univ and Purdue Univ sports," the Democrat wrote. -- **Time Warner Cable** will add **ESPNU** next week to its digital basic lineup in NY and NJ, a move that expands the net's distribution to approx 20mln homes.

Online: **NFL Net** plays a more prominent role in the redesigned and enhanced **NFL.com**, where archived video from the net's programming is available and featured on the homepage. The portal also added video recaps and previews of league games, a stat database going back 35 years and interactivity during live online game coverage. -- **PBS Kids Sprout** now offers through **Sproutonline.com** content generated by preschoolers, activity recommendations and a gathering spot for parents to share ideas and read expert blogs.

Advertising: **IFC** and **Land Rover** plan to drive through the net's doc "Action Indies: Extraordinary Location Scouts" (Sept 1), which will feature integration of Land Rover vehicles into the program's context.

Programming: **NFL Net** and **MyNetworkTV** inked a deal for a special edition of "NFL Total Access" to run on the broadcast channel. The MyNetworkTV edition will bow Sept 8, 9pm ET, running Saturdays through mid-Feb. -- The human body goes HD in **Nat Geo's** "Inside the Living Body" (Sept 16) and "Incredible Human Machine" (Oct 21), respectively featuring high-tech imagery of organs and the jaw-dropping capabilities of routine functions. -- **ESPN's** pulling a pigskin all-nighter with "25 Hours of College Football Presented by **TiVo**" (Aug 29, 7pm ET), which leads to the next night's LSU-Miss St tilt and features 6 special editions of "College Football Live" and football-heavy content within regular shows. -- **Sundance Channel** greenlit original series "Architecture School" (working title), a 6-part doc spotlighting Tulane students

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contributing to the rebuilding of New Orleans. It will debut in 3Q08.

Road Rage: Police in Mt Prospect, IL, are seeking 2 men accused of shooting a **Comcast** cable tech during a traffic altercation. The tech was shot in the right arm, suffering non-life-threatening injuries. The Comcast employee said 2 men were tailgating him and shouting obscenities. They motioned for him to pull over and the 2 drivers got into an argument, with the worker being shot while his back was turned, police said.

On the Circuit: Journalist/author *Mariane Pearl* will deliver the keynote address at next month's **NAMIC** conference in NY (Sept 16-18). Pearl is the widow of *Daniel Pearl*, the *WSJ* reporter killed in Pakistan in '02. -- **The Cable Center** will analyze the future of user-generated content during Cable Days '07 (Oct) in Denver.

People: **Travel Channel** announced the appointment of its sr mgmt team following its acquisition by **Cox**. Pres/gm *Pat Younge* elevated 5 execs: *Patrick Lafferty*, chief creative officer; *Johnathan Sichel*, svp, commercial affairs and ops; *Michael Klein*, svp, content; *Mickey McKenzie*, vp, production mgmt and ops; and *Brett Woods*, vp, business ops. -- **The Africa Channel** appointed former **Charter** exec *Eric Brown* vp, affil sales.

Oops: **NFL Net**, **CSTV** and **ESPNU** are carried on **Insight's** standard digital tier, not a sports tier.

CableFAX Daily Stockwatch

Company	08/22 Close	1-Day Ch	Company	08/22 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	22.42	0.62	ARRIS GROUP:	15.13	0.38
DISNEY:	33.57	0.28	AVID TECH:	31.31	0.80
ECHOSTAR:	39.18	0.80	BIGBAND:	10.42	1.35
GE:	39.14	0.79	BLNDER TONGUE:	1.33	0.05
HEARST-ARGYLE:	20.40	0.39	BROADCOM:	33.47	0.09
ION MEDIA:	1.32	0.02	C-COR:	14.14	0.62
NEWS CORP:	21.89	0.12	COMMSCOPE:	53.48	0.78
TRIBUNE:	28.94	0.96	CONCURRENT:	1.40	(0.01)
MSOS					
CABLEVISION:	33.15	0.05	CONVERGYS:	17.61	0.46
CHARTER:	2.67	0.06	CSG SYSTEMS:	23.43	0.18
COMCAST:	25.00	0.48	GEMSTAR TVG:	6.03	0.18
COMCAST SPCL:	24.88	0.46	GOOGLE:	512.75	6.14
GCI:	12.96	(0.07)	HARMONIC:	8.66	0.06
LIBERTY CAPITAL:	110.24	1.19	JDSU:	14.36	0.61
LIBERTY GLOBAL:	40.35	0.63	LEVEL 3:	5.03	0.06
LIBERTY INTERACTIVE:	18.84	0.31	MICROSOFT:	28.22	0.15
MEDIACOM:	8.45	0.13	MOTOROLA:	16.54	0.10
NTL:	28.22	0.00	NDS:	49.34	0.07
ROGERS COMM:	42.97	0.00	NORTEL:	18.07	(0.25)
SHAW COMM:	22.72	0.27	OPENTV:	1.46	0.00
TIME WARNER CABLE:	33.87	0.87	PHILIPS:	38.48	1.23
WASH POST:	779.59	(21.72)	RENTRAK:	11.38	0.17
PROGRAMMING					
CBS:	31.39	0.57	SEACHANGE:	6.99	0.19
CROWN:	6.96	0.01	SPRINT NEXTEL:	18.63	0.09
DISCOVERY:	24.20	0.50	THOMAS & BETTS:	55.51	1.22
EW SCRIPPS:	38.89	0.64	TIVO:	6.17	0.13
GRUPO TELEVISA:	24.52	0.64	TOLLGRADE:	10.10	0.10
INTERACTIVE CORP:	27.47	(0.13)	UNIVERSAL ELEC:	29.56	0.49
LODGENET:	27.48	0.55	VONAGE:	2.13	(0.01)
NEW FRONTIER:	6.01	(0.34)	VYYO:	6.00	(0.05)
OUTDOOR:	9.20	(0.04)	WEBB SYS:	0.09	0.00
PLAYBOY:	10.75	0.15	WORLDGATE:	0.49	0.08
TIME WARNER:	18.93	0.29	YAHOO:	23.23	0.19
UNIVISION:	36.23	0.00	TELCOS		
VALUEVISION:	8.25	(0.08)	AT&T:	39.78	1.03
VIACOM:	38.05	0.32	QWEST:	8.85	0.03
WWE:	14.92	0.36	VERIZON:	41.82	0.11
TECHNOLOGY					
3COM:	3.80	0.09	MARKET INDICES		
ADC:	17.14	0.41	DOW:	13236.13	145.27
ADDVANTAGE:	6.27	0.42	NASDAQ:	2552.80	31.50
ALCATEL LUCENT:	10.95	0.33			
AMDOCS:	35.27	0.28			
AMPHENOL:	34.76	0.86			
APPLE:	132.51	4.94			



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Consumer Choices

There is always a “consumer” angle on just about any proposal for legislation, regulation or just hand-wringing and chain rattling in Washington. You know, “...if we don’t do this, the consumers of America will be harmed.” Or “...the big conglomerates are just taking it out on the consumer.”

It gets tiresome because of course everyone, in one way or another is a consumer, and when regulations are written, they inevitably choose sides. The proponents may think they have chosen the “consumer” side, but way too often unintended consequences have the opposite result.



Steve Effros

The reality is that most of the time the argument is over “consumer choices,” and what that means is not as simple as you might at first think. Cable is often on the wrong side of the “consumer choice” argument in political circles, even though we offer more choices than most. The claim, however, is that we are the “monopoly” and therefore we have limited consumer choice by how we put program packages together (thus the call for a la carte) or how we choose which programmers to put on (thus the call for program access rules or, indeed, common carrier status).

But if you look around at the competitive telecommunications and electronics marketplace, you will notice that there are lots of examples of the consumer having choice but not total control. For instance, if you want to play video games, you have a choice of the X-Box, the Playstation or Wii—but the games you get to play are limited to the ones written for that device, and the devices are not compatible. The consumer can choose, but if the consumer wants to switch, he or she has to buy new equipment, new games, etc. Now, consumers seem to be able to understand this and handle it very well.

In the growing market for high definition DVD players, there are two formats. Again, the consumer has to choose. Blu-Ray or HD-DVD? Fox and MGM have just decided to side with the first format, Paramount and DreamWorks went the other way. But you don’t hear any federal officials (or consumer lobbying groups) demanding that the government step in and require only one format, or require all programmers to make their products available to all formats. Choice seems to be OK in this area of video too.

For some reason, however, when it comes to television (actually only cable television), those choices are suddenly deemed to be bad. Why? The feds have marched in and said we have to offer a single format that all television sets can use (the CableCARD debacle). The feds have marched in and said we have to carry all local broadcast stations if they demand it. We have to sell the broadcast tier before consumers have the choice of buying other tiers, and so on.

Why? Why can’t we be dealt with the same way satellite multichannel program delivery companies are? They can tier the broadcast channels, and charge for them separately for those who want them. Consumer choice. They can have different, incompatible equipment, and consumers seem to be able to deal with that reality. Consumer choice. Why is it that the federal government seems to think the only area where consumer choice is not a good idea is cable?

I’ll be looking into this a lot more in some upcoming columns. I think it goes back to old history and an unwillingness to acknowledge that the world has changed. Time to make that clear, so consumers can get some new choices.

Steve

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