

# CableFAX Daily™

Friday — August 31, 2012

What the Industry Reads First

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## October Sky: Program Carriage Exclusivity Deadline Looming

With August winding down, Oct will be here before you know it. The question is whether the FCC's program carriage exclusivity rules will still be around by then. The rules, slated to sunset Oct 5 unless the Commission extends them yet again, prevent exclusive contracts involving satellite-delivered, cable affiliated programming. NCTA has argued for years that the rules should be stricken in their entirety and are a violation of the 1st Amendment. Reps from the cable trade association were at the FCC earlier this month making the case again that exclusivity is not necessary to preserve and protect competition. Expect to hear plenty of rebuttals in coming weeks from the rules' proponents. DirectTV fired back at NCTA's assertions in a letter Wed, saying that if the FCC felt it necessary to impose an exclusivity prohibition when News Corp acquired control of DirectTV in '04 and had just 13% of the market share, then it's "clearly justified at more than 4 times that level." Cable's share of the MVPD market was at about 57% in '11, down from 98% in '92, according to NCTA's analysis of SNL Kagan estimates. In the past two months, the Media Bureau has sought more info from MSOs, including Time Warner Cable and Cablevision, on homes passed and actual video subs. Meanwhile, there is another issue brewing. ACA is pushing for the Commission to use the proceeding to close what it describes as the uniform price increase "loophole" by prohibiting cable affiliated programmers from charging prices above the fair market value. The group of independent ops believes a programmer affiliated with a cable op has the incentive and means to charge higher prices to rival MVPDs. Under current rules, if an MVPD files a complaint, the FCC compares the contract that the MVPD is being offered to the contracts the same programmer offers to other MVPDs. ACA is proposing the FCC take a broader approach and consider other relevant evidence in determining fair market value, including a broader range of programming contracts (for example, not just those involved in a dispute). That raised alarm bells for content companies, with Viacom, Time Warner, CBS, Disney and others expressing their opposition last week at the FCC. The programmers argued it would result in essentially a fishing expedition, putting sensitive commercial info at risk. ACA said the content companies misunderstand what it's asking. "ACA never asked the FCC to expand the scope of its program access discovery rules to cover third-party contracts, and expects the FCC to continue to limit the ability of parties to request documents to those that are both relevant and under the control of the one of the parties to the

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dispute,” ACA CEO *Matt Polka* said. With only weeks left before the proceeding needs to wrap, it's unclear if the FCC will even stick a toe in uniform pricing waters.

**Storm Watch:** Isaac was a slow moving storm, which makes damage assessments slow too. **Charter** techs in LA were in the field Thurs gauging the situation, with a better lay of the land expected Fri. It appears that Charter's service areas in Slidell (St Tammany Parish) and Thibodaux (Lafourche Parish) were among the hardest hit. **Cox** is also in the middle of assessing damage caused by Isaac in its 18-parish service area, and has brought in additional crews to help restore service. Retail stores in New Orleans were still closed Thurs, but several LA Cox service centers reopened, including Baton Rouge, Lafayette, Crowley, St Martinville and New Iberia. Perhaps not coincidentally, **Weather Channel** saw the most iPad (and iPhone) downloads of the month on Sun. The Weather Channel App for iPad recently surpassed 10mln downloads and remains the 2nd most downloaded app on iPad behind iBooks.

**Carriage:** **DirecTV** intends to remove **GoITV** from its Sports Pack effective Sept 13, but the Spanish version of the net will continue to be carried on the satellite provider's Mas Latino package. The soccer channel said there are no other changes planned with other MVPDs at this time. GoITV lost the rights to the Spanish league when **Al Jazeera's** US-based **beINSport** launched earlier this month. Earlier this month, an unnamed source told the *NY Times* that beIN paid double the \$18mln fee GoITV had paid La Liga. So far, beIN counts **Comcast**, **DISH** and DirecTV as distributors. “As a result of DirecTV's new relationship with the Emir of the State of Qatar and founder of Al Jazeera, *Sheikh Hamad Bin Khalifa Al-Thani*, DirecTV intends to remove GoITV from its Sports Pack effective September 13. Despite GoITV's efforts to negotiate a solution for soccer fans, DirecTV is determined to eliminate more than 500 live and original soccer matches aired each year by the network,” GoITV said Thurs, urging fans to contact DirecTV.

**On the Tennis Court:** While **Tennis Channel** executives held court during a NYC press luncheon Thurs, the network made its presence equally known in Washington. The channel filed in **DC Circuit Court** for an expedited hearing of **Comcast's** appeal of the **FCC's** decision that it discriminated against Tennis. Last week, the Court granted Comcast a stay that kept the MSO from having to move Tennis off its sports tier to the same packages as Comcast-owned **Golf** and **NBC Sports** (*Cfax*, 8/27). According to Tennis chmn & CEO *Ken Solomon*, “We fully expect that we will then have an expedited appeal process, and that could take months... 5-6 months.” He added that Comcast had already agreed to the process, which the filing confirmed. The filing also stated that the expedition is “necessary to prevent irreparable injury” to the network.

**At the Portals:** On circulation at the **FCC** is an order that would allow cable operators to encrypt basic tiers. It reportedly builds off of a **Comcast-Boxee** agreement that lets the start-up's set-tops access encrypted cable programming (*Cfax*, 7/2). Last Oct, the FCC proposed letting cable ops encrypt basic cable services. Boxee opposed the rule, saying it could throttle the market for its device.

**Competition:** Just by watching TV, **DirecTV** subs will get movie tickets, music, gift cards and other rewards, thanks to an agreement the DBS provider has with TV loyalty program **Viggle**. Simply by using Viggle to check into TV shows, play games and engage with interactive ads, subs will get points that can be redeemed for rewards or be converted into charitable donations. The service is available on iOS and Android platforms, and Viggle is working with DirecTV on additional platforms including set-tops and tablet integrations.

**Programming:** As expected, **FX** picked up 90 eps of “Anger Management” (*Cfax*, 7/31). As part of its original deal, if the series met a designated average ratings threshold over the airing of 8 of the first 10 eps, it would trigger an automatic additional 90-episode order, the net said. The series averaged 4.53mln total viewers and 2.5mln 18-49. -- No more bronzer, guidos and GTL as **MTV** decided to end its reality series “Jersey Shore.” Season 6, the final season, will debut Oct 4. The net premieres 1-hour retrospective “Gym, Tan, Look Back” Oct 6. -- **Grande** launched its live online access to **Longhorn Net**. Grande subs who receive Longhorn as part of their video subscription service can access the net's live events and content on computers and other connected devices.

**Ratings:** **OWN** posted double-digit ratings gains for Aug across all key demos in both primetime and total day vs the year

# BUSINESS & FINANCE

ago period. That marked the net's 7th consecutive month of YOY growth in prime and total. Specifically, "Oprah's Next Chapter" averaged a .73 W25-54 and 810K viewers, up triple digits vs. year ago numbers. Docu-series "Our America with *Lisa Ling*" finished the summer season up triple digits vs year-ago numbers.

**LGBT TV:** Showtime, ABC Family, TNT and HBO all received "good" ratings in GLAAD's 6th annual Network Responsibility Index, which measures the quality, quantity and diversity of lesbian, gay, bisexual and transgendered people on TV. The Index looked at original programming on the 10 major cable nets. Showtime fared best with 46% of the primetime hours tracked featuring at least 1 LGBT impression; 2nd place ABC Family and TNT both were at 34% with HBO at 33%. MTV, which received an "excellent" ranking 2 years ago, fell to "adequate" (23%). A spot also occupied by FX (34%), TLC (20%) and USA (17%). TBS (5%) received a "failing" rating, as did History (3%). Both nets declined comment.

**Intl:** HBO Nordic AB, the newly formed joint venture of HBO and Parsifal International, will launch its linear and on-demand premium pay TV service mid-Oct in Denmark, Sweden, Norway and Finland. The firm will offer a 24-hour, ad-free channel with both subscription and transactional VOD content.

## CableFAX Daily Stockwatch

Company	08/30 Close	1-Day Ch	Company	00/30 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DIRECTV:	52.36	(0.19)	CONVERGYS:	15.47	(0.13)
DISH:	31.84	0.01	CSG SYSTEMS:	21.26	(0.23)
DISNEY:	49.42	(0.62)	ECHOSTAR:	27.00	(0.2)
GE:	20.64	(0.18)	GOOGLE:	681.68	(6.33)
NEWS CORP:	23.37	(0.24)	HARMONIC:	4.52	(0.05)
<b>MSOS</b>					
CABLEVISION:	14.71	(0.06)	INTEL:	24.27	(0.4)
CHARTER:	77.00	0.54	JDSU:	11.07	(0.68)
COMCAST:	33.63	(0.32)	LEVEL 3:	21.60	(0.45)
COMCAST SPCL:	32.83	(0.21)	MICROSOFT:	30.32	(0.33)
GCI:	8.91	(0.27)	RENTRAK:	17.43	(0.07)
LIBERTY GLOBAL:	54.90	(0.24)	SEACHANGE:	8.11	UNCH
LIBERTY INT:	18.10	(0.02)	SONY:	11.43	(0.3)
SHAW COMM:	20.36	(0.09)	SPRINT NEXTEL:	4.83	(0.03)
TIME WARNER CABLE:	88.84	(0.49)	TIVO:	9.04	(0.32)
VIRGIN MEDIA:	27.41	0.08	UNIVERSAL ELEC:	15.23	(0.27)
WASH POST:	355.00	5.01	VONAGE:	2.11	(0.01)
<b>PROGRAMMING</b>					
AMC NETWORKS:	39.07	0.11	YAHOO:	14.67	(0.17)
CBS:	36.00	(0.18)	<b>TELCOS</b>		
CROWN:	1.68	0.02	AT&T:	36.69	(0.13)
DISCOVERY:	54.18	0.32	VERIZON:	42.77	(0.32)
GRUPO TELEVISIA:	23.08	(0.05)	<b>MARKET INDICES</b>		
HSN:	44.66	(0.26)	DOW:	13000.71	(106.77)
INTERACTIVE CORP:	51.89	(0.34)	NASDAQ:	3048.71	(32.48)
LIONSGATE:	14.43	(0.33)	S&P 500:	1399.48	(11.01)
LODGENET:	0.35	(0.01)			
NEW FRONTIER:	1.53	(0.05)			
OUTDOOR:	6.92	(0.05)			
SCRIPPS INT:	58.56	(0.68)			
TIME WARNER:	41.48	(0.37)			
VALUEVISION:	1.84	(0.05)			
VIACOM:	50.17	(0.46)			
WWE:	8.53	0.19			
<b>TECHNOLOGY</b>					
ADVANTAGE:	2.15	(0.04)			
ALCATEL LUCENT:	1.12	(0.02)			
AMDOCS:	31.94	(0.21)			
AMPHENOL:	60.32	(0.48)			
AOL:	33.71	(0.03)			
APPLE:	663.87	(9.6)			
ARRIS GROUP:	13.50	(0.19)			
AVID TECH:	9.26	(0.23)			
BROADCOM:	34.99	(0.67)			
CISCO:	18.90	(0.3)			
CLEARWIRE:	1.63	(0.05)			
CONCURRENT:	4.23	(0.21)			

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# PROGRAMMER'S PAGE


## Joy Behar Says Anything

The title of *Joy Behar's* new show on **Current TV**, "Joy Behar: Say Anything!" (premieres Sept 4) leaves little to the imagination. Or everything, depending on how you look at it. Behar is known for her decidedly liberal and often contentious commentary, so Current, which is billing itself these days as a politico-friendly, left-wing network (recent anchor adds include CA Lieutenant Gov. *Gavin Newsom* and former MI Gov. *Jennifer Granholm*) seems to be the right fit. In the wake of her cancelled HLN talk show, "The View" anchor's focus will be more on the political and social rather than the pop cultural. "I can promise you the word *Casey Anthony* will not come up... And also we won't be asking how much propofol was in *Michael Jackson*," she told reporters during a Tues conference call. Her first guest will be former U.S. Vice President (and Current TV chmn) *Al Gore*. But Behar insists that the choice was purely editorial. "He owns the station, and it had nothing to do with booking him. I really do want to talk to him," she said, specifically about "voter suppression" by the "extreme right-wing in this country." According to Behar, Gore experienced it during the 2000 presidential election. "And I'm still angry about that." When asked if she plans to make Gore "funny" on the show, she joked, "In addition to being a comedian, I'm also a magician." What led her to work with Current? The fact that she won't be censored and can talk politics. Also, it's her very own show. "You know, I'm an only child," she said. "I've been playing with siblings on The View for 15 years, and now I'd just like to be alone." Thankfully, a journalist asked the burning question on everyone's mind: What did she think of *Fifty Shades of Grey*? "I thought it was kind of a boring book to tell you the truth, and I was too tied up mostly to read it," she replied. "After the first 40 shades, it starts to really get tedious." *KH*


**Reviews:** "*Anthony Bourdain: No Reservations*," final season premiere, Mon, 9p, **Travel**. We can debate how Anthony Bourdain's become an icon. Regardless, his popularity has led to his next stop, at **CNN**. But his last Travel eps likely will be keepers, as season 9 stops include Rio, Burgundy, the Dominican Republic and hometown Brooklyn, among others. He begins in San Antonio, stuffed with music (at SXSW), excellent barbecue, hot sauce and, ahem... crack cake. Plus Bourdain idolizes an old truck serving great tacos. Adieu, Maestro! -- "Hawaii Air Rescue," premiere, Wed, 9p ET, **Weather**. When Weather's not grabbing ratings during disasters like Isaac, its slate includes entertaining series like this one, which tracks nurses, medics and pilots who fly victims between islands for emergency treatment. Sometimes the weather doesn't cooperate, making it an anxious ride. -- "Covert Affairs," Tues, 10p, **USA**. This week's ep starts a terrific 2-part story whose plot details we've been asked to withhold. We'll note, though, the CIA's most loyal analyst noses around to find the baddie. -- **Syfy** kicks off a new season of "Ghost Hunters," its longest-running non-scripted series (Wed, 9p), by visiting creepy Old City Jail, in Charleston, SC. -- **Destination America** re-runs ID's "The Woman Who Wasn't There" (Wed, 9:30p), the most unusual and one of the best shows we've seen about 9/11.


Basic Cable Rankings (8/1/12-8/31/12)			
Month of August 2012			
1	USA	2.2	2219
2	DSNY	1.9	1849
3	TNT	1.8	1777
4	FOXN	1.5	1431
5	HIST	1.3	1290
5	TBSC	1.3	1272
7	A&E	1.2	1157
8	ESPN	1.0	1009
8	LIFE	1.0	989
8	AMC	1.0	823
11	HGTV	0.9	924
11	ADSM	0.9	920
11	SYFY	0.9	901
11	FX	0.9	878
11	FOOD	0.9	850
11	TRU	0.9	832
11	DSE	0.9	70
18	FAM	0.8	818
18	DISC	0.8	793
18	TLC	0.8	755
18	NKJR	0.8	616
22	MSNB	0.7	681
22	MTV	0.7	643
22	BRAV	0.7	617
22	ID	0.7	547
26	NAN	0.6	628
26	SPK	0.6	611
26	TVLD	0.6	603
26	CMDY	0.6	571
26	VH1	0.6	563
26	BET	0.6	531
26	LMN	0.6	523
26	NFLN	0.6	354
34	EN	0.5	491
34	APL	0.5	475
34	HALL	0.5	424
37	NGC	0.4	352
37	CNN	0.4	352
37	DXD	0.4	304
37	OXYG	0.4	299
37	GSN	0.4	290
42	TRAV	0.3	313
42	ESP2	0.3	293
42	HLN	0.3	275
42	OWN	0.3	252
42	SCI	0.3	222


\*Nielsen data supplied by ABC/Disney



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