

CableFAX Daily™

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What the Industry Reads First

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It's Baaack: Your Net Neutrality Primer before the Big Day

On Mon, **Verizon** will finally get its day in court. The telco filed an appeal of the **FCC's** '10 net neutrality order, arguing that it exceeds the Commission's statutory authority and is contrary to constitutional rights. It's a big deal with many telecom public policy what-ifs ending in "depending on what the court rules on net neutrality." Cable's position on the matter is that while the FCC order was far from perfect, it's OK. Then-**NCTA** chief *Kyle McSarrow* called it a "fair resolution" that achieves the shared objectives of preserving the openness of the Internet and the incentives to invest and innovate for the benefit of consumers. Part of the reason cable is accepting of the rules is that at one point, there was serious talk about applying parts of Title II to the Internet, which could burden the industry with all sorts of new regulations. Some fear that if the FCC loses in the Verizon case, the call for Title II regulation might be renewed. With the passage of the Open Internet order, the net neutrality buzz died down significantly in the press. Heck, the words were hardly muttered after **CBS** blocked **Time Warner Cable** subs from viewing its online content while the 2 were mired in a retransmission consent dispute last month. Over these next few days (and perhaps weeks to come), the issue will gain new life. On Thurs, opponents to Verizon's challenge had their day at an event hosted by **New America Foundation's Open Technology Institute** and **Free Press**. The panel discussion of the case received live coverage on **C-SPAN 2**. However, it lacked any representation from Verizon or from net neutrality opponents. Don't worry. Everyone's talking about this case, and the **American Enterprise Institute** held a Google Hangout immediately following the NAF event (horrible audio, by the way), with a panel that included former FCC commissioner *Robert McDowell*. Now with the **Hudson Institute**, McDowell opposed the open Internet order as a commissioner and predicts the agency will easily lose the case. One thing most everyone agrees on is that Verizon is unlikely to prevail on its constitutional challenge. McDowell argues that the court is unlikely to go that route when statutory avenues are available instead. If Verizon did win the constitutional point, it would be a "serious attack" on the idea that Congress has any role in ensuring open, ubiquitous, reasonably priced broadband, *Susan Crawford*, *President Obama's* former science, tech and innovation adviser, said at NAF's event. At the AEI panel, that notion was dubbed an "overreach." If the court ruled in Verizon's favor on the First Amendment issue, it would "not be saying Congress can't do anything. It's saying Congress doesn't act unless it's something really important and it's not treading on speech more than it has to," said *Daniel Lyons* of **Boston College Law School**. The professor, by the way, thinks Verizon will win, but he's not as confident as he once was about the victory. "I don't think it's a slam dunk," Lyons said. "It is a shot across the bow to Congress that it's time to decide what role, if any, the FCC should have." Here's a decent bet: whatever the court decides, it'll likely be appealed to the Supreme Court.

In the Courts: The DC Circuit granted broadcasters a preliminary injunction against **FilmOn**, preventing it from redistributing the networks' signals over the Internet. The opinion noted that it disagreed with **Aereo's** arguments, which are

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in line with FilmOn's. In Apr, the 2nd Circuit denied broadcasters' request for a preliminary injunction against Aereo. In the FilmOn case, the DC Circuit said it agreed with dissenting 2nd Circuit judge *Denny Chin*. -- It sounds like **Tennis Channel** might pursue an appeal after the DC Circuit denied its petition for rehearing a case that found Comcast didn't discriminate against the network by putting it on a sports tier (*Cfax*, 9/5). The programmer said the decision "effectively strips the FCC of the ability to perform the role Congress requires" and argued that if Comcast owned Tennis Channel instead of **Golf Channel**, the table would be flipped. "We are disappointed with this result and intend to pursue further review," Tennis said.

On the Hill: House Judiciary subcmte on the Courts, Intellectual Property and the Internet will hold a hearing on STELA Tues morning. Witnesses are expected to include **DISH** gen counsel *Stanton Dodge*, **Nielsen** svp, govt and public affairs *Don Lowery*, **Shentel Cable** COO *Earle MacKenzie* (on behalf of **ACA**) and **Arnold & Porter's** *Robert Garrett* for **MLB**.

On the Circuit: It has been 7 years since **NCTA** moved to its new HQ closer to the Capitol, and now **NAB** might follow. The broadcaster group's board voted unanimously to pursue relocating to Capitol Hill/ Capitol Riverfront as it seeks to improve advocacy efforts. It could be the end of an era. NAB has been in its Dupont Circle digs, which it owns, since 1947.

Rosenworcel Speaks: If it's any hint on what the **FCC** might do in future retrans disputes, FCC commish *Jessica Rosenworcel* said on **CSPAN's** Communicators this week that the agency "should look at its good faith authority under the Communications Act and help do something about it." **Time Warner Cable**, which just ended its retrans battle with **CBS**, was hoping Congress or the FCC could revisit retrans consent rules, including good faith authority. Under the rules, the FCC can only intervene when one of the parties file a formal complaint over violation of good faith negotiations. In TWC/CBS's case, neither did. She also said consumers deserve a refund if dispute lasts a long time and that a la carte "has some allure."

At the Portals: Up to 600K homes and businesses nationwide are determined eligible to get broadband access for the 1st time through the **FCC's** Connect America Fund as the agency released an interactive map showing the locations of the areas. The agency is set to distribute up to \$385mln in the 2nd round of USF funding, following the 1st round that aimed at unserved areas. Competitors can mount challenges, so the locations currently depicted on the map could change. **ACA** recently questioned whether apparent USF support for major urban markets is warranted (*Cfax*, 8/21).

Scripps' Changes: **Scripps Networks'** new pres is *Burton Jablin*, most recently head of **HGTV** and **DYI Network**, succeeding *John Lansing*, who is retiring after 9 years at Scripps. Succeeding Jablin as pres of the home category will be *Kathleen Finch*, most recently svp and gm of **HGTV** and **DYI Network**. Lansing will continue on a consulting basis.

VOD: **Time Warner Cable** has scored its latest out-of-home VOD deal, this time with **AMC Networks**. Coming soon: All TWC local news channels, though all local news, traffic and weather channels may not be available immediately.

CTAM: Among **CTAM's** '13 Rainmaker recipients, who are being recognized for their exceptional service to the organization and the cable industry, are *Phil Bellaria*, vp, customer retention & loyalty marketing, **Comcast**, and *Beverly Gambell*, vp of marketing business services, **Suddenlink**. Among the marketers association's TAM award recipients, who are being recognized for volunteer service and creativity in leading projects that benefit the CTAM community, are *Kenetta Bailey*, chief marketing officer, **TV One** and *Ed Gordon*, sr dir, distribution & audience research, **ESPN**.

Ratings: **DIY Network's** "Holmes Makes It Right" ep on Tues averaged 570K viewers, making it the most watched ep

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of any series in the net's history. The net, celebrating its 14th year anniversary this week, saw its most watched week, averaged 171k viewers in total day and 260k viewers in prime.

-- Nearly 73mln viewers watched the season opening of college football over a 5-day period across **ESPN** nets starting last Thurs. "Saturday Night Football" was the most-viewed program of the night across all nets, averaging more than 8mln viewers and a 4.8 US rating.

Programming: Through a sublicensing deal with **Fox Sports, CBS Sports** scored rights to televise **Big East Conference** college basketball games on both **CBS Television Network** and **CBS Sports Net**. The multiyear deal starts with the '13-'14 basketball season and continues through '18-'19. The contract covers up to 30 men's basketball games per year combined on CBS Sports and CBS Sports Net. CBS Sports can air up to 5 games each year, with CBS Sports Net airing the remaining contests.

People: *Denise Contis* is the new evp, production and development, **Discovery Channel** - West Coast. The position, which becomes effective Mon, was previously held by *Nancy Daniels*, who was promoted to gm, **TLC** this week. -- **Cox** promoted *Kristine Faulkner* to vp, gm of Home Security and Smart Home. Faulkner will expand home security to new markets and "define the roadmap of advanced services" for its Smart Home portfolio.

CableFAX Daily Stockwatch

Company	09/05 Close	1-Day Ch	Company	09/05 Close	1-Day Ch			
BROADCASTERS/DBS/MMDS								
21ST CENTURY FOX:	31.95	UNCH	GOOGLE:	879.56	7.93			
DIRECTV:	58.97	0.59	HARMONIC:	7.31	(0.07)			
DISH:	46.31	0.45	INTEL:	22.60	(0.04)			
DISNEY:	61.30	0.19	JDSU:	13.96	0.26			
GE:	23.16	(0.01)	LEVEL 3:	22.82	(0.1)			
MSOS								
CABLEVISION:	17.72	(0.21)	MICROSOFT:	31.23	0.04			
CHARTER:	124.66	0.10	RENTRAK:	24.63	0.62			
COMCAST:	42.54	(0.52)	SEACHANGE:	10.90	0.34			
COMCAST SPCL:	41.24	(0.29)	SONY:	21.09	0.28			
GCI:	9.11	(0.03)	SPRINT NEXTEL:	6.48	(0.17)			
LIBERTY GLOBAL:	77.93	(1.18)	TIVO:	11.96	0.02			
LIBERTY INT:	23.44	0.27	UNIVERSAL ELEC:	31.15	0.08			
SHAW COMM:	23.31	0.13	VONAGE:	3.12	(0.01)			
TIME WARNER CABLE:	108.90	(1.01)	YAHOO:	28.23	0.16			
WASH POST:	577.60	4.25	TELCOS					
PROGRAMMING								
AMC NETWORKS:	62.75	0.35	AT&T:	33.34	(0.4)			
CBS:	53.94	(0.66)	VERIZON:	46.64	(0.14)			
CROWN:	3.11	(0.02)	MARKET INDICES					
DISCOVERY:	77.59	0.67	DOW:	14937.48	6.61			
GRUPO TELEVISIA:	25.72	0.17	NASDAQ:	3658.78	9.74			
HSN:	55.00	1.43	S&P 500:	1655.08	2.00			
INTERACTIVE CORP:	51.75	0.98	TECHNOLOGY					
LIONSGATE:	36.37	0.17	ADDVANTAGE:	2.43	(0.03)			
SCRIPPS INT:	74.54	0.04	ALCATEL LUCENT:	3.10	0.06			
STARZ:	25.90	0.56	AMDOCS:	37.12	0.04			
TIME WARNER:	61.58	(0.41)	AMPHENOL:	75.63	(0.73)			
VALUEVISION:	4.96	(0.09)	AOL:	33.29	0.18			
VIACOM:	80.16	(0.17)	APPLE:	495.27	(3.42)			
WWE:	10.24	0.04	ARRIS GROUP:	15.74	(0.12)			
TECHNOLOGY								
ADDVANTAGE:	2.43	(0.03)	AVID TECH:	5.60	0.06			
ALCATEL LUCENT:	3.10	0.06	BLNDER TONGUE:	0.88	0.03			
AMDOCS:	37.12	0.04	BROADCOM:	26.82	0.90			
AMPHENOL:	75.63	(0.73)	CISCO:	23.69	(0.08)			
AOL:	33.29	0.18	CONCURRENT:	7.62	(0.24)			
APPLE:	495.27	(3.42)	CONVERGYS:	17.79	0.08			
ARRIS GROUP:	15.74	(0.12)	CSG SYSTEMS:	23.76	(0.16)			
AVID TECH:	5.60	0.06	ECHOSTAR:	42.81	0.61			
BLNDER TONGUE:	0.88	0.03						
BROADCOM:	26.82	0.90						
CISCO:	23.69	(0.08)						
CONCURRENT:	7.62	(0.24)						
CONVERGYS:	17.79	0.08						
CSG SYSTEMS:	23.76	(0.16)						
ECHOSTAR:	42.81	0.61						



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PROGRAMMER'S PAGE

Get Rattled

Nat Geo's newest series "Snake Salvation" has everything you need for a hit show these days: Reptiles? Check. Small, interesting religious sect? Check. Country folk/self-described rednecks? Check. But what it doesn't have, thankfully, is a bunch of scripted catch phrases and wannabe reality stars. The first 2 episodes (premieres Tues at 9pm and 9:30pm) come across as a true attempt to capture the lives of 2 pastors who truly believe hoisting copperheads and rattlesnakes up in the air during church brings them closer to God. With only about 100 snake-handling congregations in America, it can be hard to even find a church to film. Then, you have to convince them to let cameras in the door. "These people take their religion very seriously. They know that there are people who think of it as a spectacle, and they don't want it to be thought of it as a spectacle," co-executive producer *Matthew Testa* told us. Testa, whose credits include "Bounty Wars" and "Whale Wars," explained that no directing was allowed whatsoever. "They were really opposed to almost any level of that because they feel like if they were to act or repeat a line we fed them, that it would be deceitful and a sin," he said. "We really had to wait around for things to happen. And man, they happened." Snakes bite 3 people during the series—especially serious as most handlers turn to prayers instead of doctors for bites. Last year, snake-handling pastor *Randy "Mack" Wolford* was killed after receiving a rattlesnake bite during a WV service. It's actually illegal in some states, including KY where filming takes place, to use venomous snakes in a place that endangers others without a permit. And legal issues with transporting venomous reptiles across state lines comes up in a future ep. Salvation is a respectful peek into a world few know. And the show also looks at the handlers' lives outside the church, including poverty and unemployment in Appalachia. It's definitely worth a look. - *Amy Maclean*

Reviews: "Boardwalk Empire," season 4 premiere, Sun, 9p, **HBO**. This series continues to successfully re-invent itself, with *Nucky (Steve Buscemi)* now lying low and *Chalky White (Michael Kenneth Williams)* as his front man. The body count continues to mount, though. -- "King of Thrones," premiere, Tues, 10p, **Destination America**. We see DA chief *Henry Schleiiff's* fingerprints all over this amusing docu-series about two affable MN remodelers, *Jeff and Dave*, who transform drab bathrooms. But they don't come cheaply—only those flushed with success can afford \$60K for a restroom with TVs, speakers and remote control, fancy fixtures and body dryers. Before you complain about TV going down the toilet, "Thrones" says we spend 14 days/year in the bathroom. So the restroom truly is a destination, America. -- "Verses and Flow," season 3 premiere, Wed, 9p, **TV One**. Many programmers claim their show is "like nothing else on TV." A format allowing modern poets to recite their work, interspersed with musical interludes, really is unique to the medium. "Verses and Flow" is storytelling in its purest form. -- **Notable:** As summer ends, a notable summer series does, too, as "Burn Notice" is extinguished after 7 seasons of *Michael Westen (Jeffrey Donovan)* trying to discover why he's been dismissed, or burned, from his career as a CIA operative (finale, Thurs, 9p, **USA**). - *Seth Arenstein*

Basic Cable Rankings (8/26/13-9/01/13)		
Mon-Sun Prime		
1	USA	1.9 1870
2	ESPN	1.8 1763
3	DSNY	1.6 1589
4	TNT	1.5 1476
5	A&E	1.4 1411
5	TBSC	1.4 1396
7	HIST	1.3 1339
7	FOXN	1.3 1304
9	ADSM	1.0 998
9	HGTV	1.0 978
9	DSE	1.0 73
12	FX	0.9 900
13	LIFE	0.8 824
13	TLC	0.8 812
13	AMC	0.8 765
13	BRAV	0.8 759
13	SYFY	0.8 757
13	NAN	0.8 753
13	ESP2	0.8 752
20	FOOD	0.7 747
20	MTV	0.7 729
20	DISC	0.7 667
20	BET	0.7 650
20	TRU	0.7 630
20	HALL	0.7 614
20	ID	0.7 557
20	NFLN	0.7 527
28	SPK	0.6 629
28	FAM	0.6 600
28	TVLD	0.6 593
28	EN	0.6 563
28	CMDY	0.6 560
28	LMN	0.6 514
28	DSJR	0.6 397
35	MSNB	0.5 520
35	APL	0.5 507
37	VH1	0.4 421
37	CNN	0.4 418
37	OWN	0.4 365
37	TRAV	0.4 337
37	NGC	0.4 312
37	OXYG	0.4 307
37	NKJR	0.4 294
37	GSN	0.4 280
37	H2	0.4 278
37	HMC	0.4 234

*Nielsen data supplied by ABC/Disney

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