

# CableFAX Daily™

Thursday — September 13, 2007

What the Industry Reads First

Volume 18 / No. 178

## The Day After: Uneasy Peace Settles In After Cable's Dual Carriage Victory

With some likely in bed before the FCC's open meeting ended Tues night, the multichannel world awoke Wed to the news that cable had prevailed and defeated FCC chmn *Kevin Martin's* plan to force operators to carry must-carry stations' analog and digital signals until a system becomes completely digital. The meeting started 11 hours late, at about 8:30pm ET. During a call with reporters Wed, NCTA pres/CEO *Kyle McSarrow* declined to take reporters' bait and disparage Martin. "I think every office, including the chairman's office, dealt with this constructively and fairly," he said. "It was a 5-0 decision. Obviously, the chairman was critical to an outcome like this." However, Martin's statement on the order signaled some sour grapes. "If the cable companies had their way, you, your mother and father, or your next door neighbor could go to sleep one night after watching their favorite channel and wake up the next morning to a dark fuzzy screen. This is because the cable operators believe that it is appropriate for them to choose which stations analog cable customers should be able watch," Martin said. Ironically, the rules the FCC adopted—that operators must carry digital and analog must-carry signals for 3 years starting Feb 18, 2009—come from a voluntary proposal put forth by the cable industry. McSarrow reacted to Martin's statement by saying that cable has made "very clear" to the FCC and Congress that such a scenario won't happen. NAB, which had hoped for permanent dual carriage, applauded the FCC's move but couldn't resist a cable jab. "NAB applauds the FCC for crafting a solution that prevents cable gatekeepers from discriminating against niche and minority TV stations that play a vital role in the fabric of American society," a spokesman said. Cable also prevailed in nixing language in Martin's proposal (and supported by NAB) that would have required operators to carry all of a broadcaster's bits—something that would prevent signal compression or multiplexing. The FCC could opt to extend the rules beyond 2012 when it reviews them in their 3rd year of existence.

**Program Access & Tying:** At its Tues meeting, the FCC also voted to extend program access rules until Oct, 2012, forcing cable ops to sell their own satellite-delivered cable nets to multichannel rivals. The order has not been released yet, but NCTA pres/CEO *Kyle McSarrow* said he believes it pared back the discovery procedure for those who file complaints. Controversy stemmed from a provision allowing those who file program access complaints to gain access to the contracts between the cable-affiliated programmer and any distributor. The decision "made it clear that the FCC has a role in terms of the relevance of documents in a carriage dispute," McSarrow said. However, **EchoStar** commended the FCC's action, saying it puts "some teeth" into the discovery process. The agency also voted to launch a notice of proposed rulemaking on program tying arrangements (ie, forcing video providers to buy a channel to carry another more desirable channel). The NPRM seeks comment on whether it's appropriate to preclude these tying arrangements and to instead require all programming services to be offered on a stand-alone basis to all MVPDs. The tying NPRM excited Martin's al la carte buddy Sen *John McCain* (R-AZ), saying it hoped it would lead to giving consumers

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more control over their viewing options. "Consumers should not have to pay for channels they find distasteful or they do not watch," McCain said. One other issue the FCC's examining is whether program access rules should be extended to terrestrially delivered nets, such as **Comcast Sports Net Philly**.

**Small Ops' Burden:** Not every cable operator cheered Tues night's **FCC** decision. Chmn *Kevin Martin* prevailed in not giving a dual carriage exemption to cable systems 552Mhz or less—which especially bothered Dem commish *Jonathan Adelstein*. Instead, those systems will have to apply for hardship waivers, although the FCC has requested further comment on reducing the burden for small ops. ACA estimates that about 68% of its members (4,100 cable systems) fall into the 552Mhz or less category. Those systems cover 4.3mln subs, or 3.9% of all TV HHs. ACA has said the decision hurts their ability to bring broadband to rural areas—an administration priority. ACA CEO *Matt Polka* pooh-poohed the exemption option. "This offers little meaningful relief, requiring these systems to engage in, and pay for, yet another process at the FCC, with the outcome far from certain," he said. Reps *Joe Barton* (R-TX) and *Fred Upton* (R-MI) called the waiver process "clumsy," noting that failed House DTV legislation would have given small ops a straightforward exemption.

**HGTV's Samples:** Former **Cartoon Net** head *Jim Samples* scored the job as pres, **HGTV**. He joins Oct 1, giving him a chance to work with outgoing pres *Judy Girard* before she retires later this year. Samples resigned from Cartoon in Feb following an **Adult Swim** marketing stunt that prompted a bomb scare in the city and closed road and waterways. At the time, some in the industry questioned why Cartoon's gm took the fall. Samples told **Cfax** that it was an important learning experience and "something that will make me a better executive." He's taking the helm of a network with more than 95mln subs and will have to relocate to Knoxville from Atlanta. With HGTV's ratings on a high note, he said one area of focus will be expanding the net's brand, whether that means new media or products outside programming.

**Inside the Beltway:** Fat Buster/Rep *Ed Markey* (D-MA) convinced **Burger King** to become the 12th major food/beverage company to restrict ads for unhealthy foods directed at kids. He sent letters Wed to **Nestle**, **ConAgra**, **Dannon**, **Yum!** and **Chuck E. Cheese** urging similar action. -- The **Free Press** wants to know what prompted the **US Justice Dept** to file comments against net neutrality months after the **FCC's** comment period on the matter closed. It filed a request under the Freedom of Information Act. -- With the Internet tax moratorium set to expire Nov 1, Sen *Ted Stevens* (R-AK) urged Congress Wed to extend it. He called it the most pressing broadband issue before Congress right now.

**Competition:** **Verizon** launched **FIOS TV** in parts of 24 more NJ locales (220 total), including Jersey City and Fairfield.

**Fight Club:** **HDNet** is stepping into the MMA content ring already occupied by nets such as **Spike**, **FSN** and **Ver-sus**, with "HDNet Fights" to answer the bell Oct 13. HDNet chief *Mark Cuban* hired former **UFC** combatant *Guy Metzger* to oversee the franchise, which features former World Kick Boxing Champion *Jeff Ford* on the premiere card. Cuban said he plans to position the events "more like a Mavs game, more like an athletic event than a spectacle," and views next month as a "beta test, if you will." Cuban also said the net has been in discussions with **WWE** about doing some cross promotions under the new fight banner and possibly partnering on an MMA brand.

**Deflated:** Despite setting net ratings records for '07, **ESPN's** "MNF" kickoff double-header sputtered versus last year's numbers, averaging a 7.75/7.46mln (-16%/-13%). The 2nd game actually slipped the most: 19% to 6.9/6.63mln. Meanwhile, opening-week tilts led the weekly ratings in all 30 NFL markets, tying the league record set in '03.

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# BUSINESS & FINANCE

**Honors:** Discovery pres/CEO David Zaslav will receive the National Academy of Television Arts & Sciences' Trustees Award on Sept 23.

**People:** Nickelodeon/MTVN Kids and Family Group upped Jason Root to svp, digital, **Nick.com** and **Nickatnite.com**. -- Discovery Comm named former Sony exec James Rosenstock svp, business development and strategy. -- Fox Business Net named 5 anchors from Fox News Channel, all of whom retain their current FNC roles: David Asman, Cheryl Casone, Rebecca Gomez, Dagen McDowell, and Stuart Varney.

**Business/Finance:** Hallmark Channel confirmed that Crown CEO Henry Schleiff met with Turner execs last week but declined to elaborate. The net pulled its "For Sale" sign off in Apr '06, but Schleiff has said he's always willing to talk to potential buyers (Cfax, 2/27). The net awaits a decision by National Interfaith Cable Coalition on its "put" option for 4mln Crown shares. NICC could sell the shares to the public or to a strategic investor, or it could use its put right to force Crown to buy them back. -- Former Viacom and MTVN CEO Tom Freston joined Michael Eisner and Time Warner as an investor in Veoh Nets, which aggregates TV content for consumption at **Veoh.com**. Former Viacom Ent Group chmn/CEO Jonathan Dolgen was also named a backer of the venture, which last month closed a \$25mln Series C funding round.

## CableFAX Daily Stockwatch

Company	09/12 Close	1-Day Ch	Company	09/12 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
BRITISH SKY:	55.01	(0.24)	APPLE:	136.85	1.36
DIRECTV:	22.17	(0.42)	ARRIS GROUP:	14.00	(0.05)
DISHNEY:	33.72	0.23	AVID TECH:	27.79	(0.76)
ECHOSTAR:	40.70	(0.7)	BIGBAND:	9.25	0.31
GE:	39.90	0.40	BLNDER TONGUE:	1.27	0.02
HEARST-ARGYLE:	25.55	0.04	BROADCOM:	35.37	(0.09)
ION MEDIA:	1.32	(0.01)	C-COR:	10.21	(0.09)
NEWS CORP:	22.41	(0.14)	CISCO:	31.78	(0.38)
TRIBUNE:	27.38	(0.13)	COMMSCOPE:	54.55	(0.45)
<b>MSOS</b>					
CABLEVISION:	33.80	0.01	CONCURRENT:	1.33	(0.01)
CHARTER:	2.53	(0.15)	CONVERGYS:	16.64	0.03
COMCAST:	25.22	(0.27)	CSG SYSTEMS:	21.94	(0.09)
COMCAST SPCL:	24.97	(0.3)	GEMSTAR TVG:	6.49	0.01
GCI:	12.24	(0.04)	GOOGLE:	522.65	1.32
KNOLOGY:	16.45	(0.31)	HARMONIC:	10.11	(0.27)
LIBERTY CAPITAL:	116.07	0.43	JDSU:	14.58	0.04
LIBERTY GLOBAL:	40.68	(0.03)	LEVEL 3:	4.60	(0.12)
LIBERTY INTERACTIVE:	18.74	0.03	MICROSOFT:	28.93	0.00
MEDIACOM:	7.47	(0.09)	MOTOROLA:	17.25	(0.01)
NTL:	28.22	0.00	NDS:	49.77	0.67
ROGERS COMM:	42.97	0.00	NORTEL:	17.10	0.17
SHAW COMM:	22.97	0.00	OPENTV:	1.46	0.02
TIME WARNER CABLE:	34.37	(1.15)	PHILIPS:	42.01	0.28
WASH POST:	780.69	(0.81)	RENTRAK:	11.82	(0.18)
<b>PROGRAMMING</b>					
CBS:	30.25	(0.54)	SEACHANGE:	6.39	(0.06)
CROWN:	6.88	0.22	SONY:	47.19	(0.44)
DISCOVERY:	26.53	0.34	SPRINT NEXTEL:	17.78	(0.16)
EW SCRIPPS:	40.87	0.07	THOMAS & BETTS:	56.94	2.54
GRUPO TELEVISIA:	26.10	(0.42)	TIVO:	5.84	(0.18)
INTERACTIVE CORP:	27.73	0.07	TOLLGRADE:	10.04	(0.21)
LODGENET:	25.24	(0.89)	UNIVERSAL ELEC:	27.76	0.54
NEW FRONTIER:	6.60	(0.09)	VONAGE:	2.06	0.03
OUTDOOR:	8.72	(0.23)	VYYO:	5.64	(0.15)
PLAYBOY:	11.14	(0.03)	WEBB SYS:	0.07	0.00
TIME WARNER:	18.56	0.26	WORLDGATE:	0.38	(0.02)
UNIVISION:	36.23	0.00	YAHOO:	23.56	(0.15)
VALUEVISION:	7.91	(0.17)	<b>TELCOS</b>		
VIACOM:	37.90	(0.92)	AT&T:	39.86	0.05
WWE:	13.97	(0.62)	QWEST:	8.85	(0.05)
<b>TECHNOLOGY</b>					
3COM:	3.80	(0.11)	VERIZON:	41.91	0.04
ADC:	20.42	(0.14)	<b>MARKET INDICES</b>		
ALCATEL LUCENT:	10.06	(0.14)	DOW:	13291.65	(16.74)
AMDOCS:	35.38	0.56	NASDAQ:	2592.07	(5.4)
AMPHENOL:	37.34	(0.28)			

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## Think about that for a minute...

### Capricious

When particularly outrageous or seemingly mindless decisions are made by government officials (yes, it does happen from time to time) or agencies, the usual next step is a court appeal challenging “arbitrary and capricious” actions. The problem we have with the FCC leadership these days is that the things being done are not “arbitrary”—they are cable-centric and intentional! They are also, however, totally “capricious.”

If you check the dictionary definition of “capricious” you will see that it means taking actions based on whim, not on reasoned thought. That appears to be a perfect definition of what is going on with the “DTV Transition” as it relates to cable television. Look at what is, or is not, being considered and you just have to wonder where the “expertise” of this “expert agency” has gone.



Steve Effros

There is general consensus both in political and regulatory circles that the DTV transition date of Feb 2009 is going to create major problems for many consumers as the government requires broadcasters to stop delivering analog broadcast signals in favor of digital signals. Consumers, millions of them, will still have only analog-capable TV sets. So the government is going to pay close to a billion dollars to subsidize special tuners to take the digital signals and make them analog compatible for those folks who buy the boxes.

Cable operators could do that in one simple step for their customers by converting the digital signal at the headend to analog and delivering it. So what is the Chairman of the FCC doing? He’s trying any way he can to push all cable systems to be “all digital” by that 2009 date! That requires many millions of additional set top boxes to be put in homes that don’t now need them. Prices would go up.

Cable has long been criticized for raising prices, but what has the FCC done to mitigate those price increases? Well, they required “separable security” for leased cable boxes! In other words, we have to use more expensive technology to deliver exactly the same service on boxes the consumer never owns based on the totally unproved notion that this will spur retail sales. Prices will go up.

Broadcasters, supported by the Chairman, have demanded that there be “no degradation” in their new digital signal, and claim the only way to do that is to require cable to deliver “all bits.” However, compression technologies have been used successfully for years, and television pictures, including HD, look just fine. Thankfully, the Commission just voted not to play that game.

What’s ironic about the “degradation” issue, and whimsical, is that we’re now hearing ads from consumer electronics stores saying that for an extra \$80 to \$175, customers can get an “expert” to come out to their home and properly “calibrate” the new television set they just bought! Translation: the television sets the FCC has required to be built for digital reception are not properly tuned when sold. The picture, even if the cable industry sends a “perfect” one to the home, is degraded by almost any set a consumer buys!

Can that be fixed? Yes, manufacturers could be required to properly calibrate sets before sale. Will the FCC do that? They’re not even considering it! The Chairman seems singularly focused on rules relating to cable delivery. The result: the price for properly tuned new sets will go up to the consumer, and the consumer, again, gets no additional benefit. Sound familiar? That’s the way this Commission’s leadership seems to deal with the DTV transition and cable. Not arbitrary, but definitely capricious.

Steve

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**Deadline for nominations:  
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Nomination form can be found at:

**[www.cable360.net/top10workplaces.html](http://www.cable360.net/top10workplaces.html)**



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Comcast - Senior Advisor for Government Relations  
and Communications

Cox Cable Communications - SVP, Programming

Google - Director, Google TV Ads

HSN - EVP, Affiliate Relations

Mediacom, LLC - SVP, Programming & HR

Millennium Digital Media - SVP, Programming &  
Product Development

NCTC - President & CEO

New Wave Communications - President

Ovation

Retirement Living TV

Time Warner Cable - SVP & Chief Business Affairs Officer

Wave Broadband - CEO

### Tentative Schedule Of Events

#### Wednesday, October 24, 2007

12:00 pm – 3:00 pm Registration

3:00 pm – 5:00 pm Industry Leaders Forum

7:00 pm – 10:00 pm Dinner

#### Thursday, October 25, 2007

8:00 am – 11:30 am Industry Leaders Forum/Breakfast

12:00 pm – 4:30 pm Recreation Activities

7:00 pm – 10:00 pm Dinner (Ritz-Carlton)

#### Friday, October 26, 2007

8:00 am – 11:00 am Industry Leaders Forum/Breakfast

11:00 am Departure

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