

CableFAX Daily™

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What the Industry Reads First

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Plugging Along: NCTA, Programmers Oppose TiVo's CableCARD Petition

NCTA is speaking out against TiVo's petition for the FCC to impose regulations on cable ops that the DVR maker says would ensure that consumers can access cable content on retail devices via CableCARDS, with the trade group calling such rules outdated and unnecessary. In Jan, the DC Circuit Appeals court ruled the FCC lacked authority to impose encoring rules on satellite companies, vacating the entire order, including provisions that applied to cable. In July, TiVo asked the FCC to reinstate the vacated cable rules that are based on the 2003 Plug-and-Play order (*Cfax*, 7/17). "Although TiVo claims that it merely seeks to 'reinstate' these vacated regulations, the petition in fact requests something very different... that the Commission impose the encoding rules just on cable operators, but not their MVPD competitors," NCTA told the FCC in comments this week. TiVo also asked the FCC to clarify that its 2010 CableCARD rules remain in effect. While programmers largely did not participate in the creation of the Plug-and-Play order, **Disney, Viacom, Fox, CBS** and **Time Warner** lined up to support NCTA. "While the universe of [unidirectional cable plug-and-play] devices has remained small since 2003, continued cable operator support for already-deployed devices, in addition to a new product announcement by **Samsung** since the DC Circuit decision, underscore that the UDCP regime has continued to function well in the absence of formal FCC rules," the programmer said. **Verizon** also wants the FCC to reject TiVo's request to reinstate certain CableCARD rules, saying it should rely on existing market forces. Like NCTA, it takes issue with applying encoding rules only to cable, saying that the court's decision invalidated all legal bases for the rules as applied to all MVPDs. NCTA noted that cable ops have continued to support CableCARDS even after the Jan court decision and are incentivized to do so because of competition. The trade group argued that cable operators already have a duty under other rules to support separate security for retail devices, but if the FCC chooses to proceed with a rulemaking because of the court decision, any rules adopted should have a sunset. And those encoding rules shouldn't just apply cable. "Applying encoding rules to only cable operators would not protect consumers. Instead, the rules would steer protected programming (such as early-release theatrical content) to non-cable operators, and away from the very cable customers that TiVo seeks to serve," NCTA said. **Public Knowledge** supports TiVo's petition, declaring that the DC Circuit ruling was narrow

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Access Intelligence, LLC, 4 Choke Cherry Road, 2nd Floor, Rockville, MD 20850

but incorrectly interpreted by the Commission in a way that “could substantially weaken” CableCARD support. PK acknowledges shortcomings with the CARD, but said it shouldn’t be abandoned without a replacement system in place. TiVo also, of course, has **CEA**’s support, with the manufacturer trade group suggesting that the FCC can reinstate the rules based on the existing record and comments to TiVo’s petition. “If the Commission feels obligated to issue a formal Notice of Proposed Rulemaking, it should do so expeditiously so as to avoid any further uncertainty,” CEA said. If the Commission does release an NPRM or grant TiVo’s request, **ACA** wants it to consider a blanket exemption of the integration ban (which requires separable security, such as CableCARDS, for set-tops) for small cable systems operated by small cable ops. ACA said the FCC could relieve small ops from the ban while maintaining the requirement that cable ops support their customers’ use of 3rd-party devices, such as TiVo’s or Samsung’s Smart Media Player, which just got the OK from the FCC via an analog tuner waiver (*Cfax*, 9/10).

Retrans: Lots of contracts ending at the end of Sept, including **Citadel** and **DirecTV**. Keep in mind, Citadel now only operates only **WLNE** in Providence, RI, and **KLKN** in Lincoln, NE, (both **ABC** affiliates), with Nexstar taking over management Tues of the Citadel stations it plans on buying in Des Moines, Sioux City and Davenport, IA (*Cfax*, 9/17). Those stations do not have retrans pacts expiring with DirecTV this month. The fallout from last week’s Hill hearings on retrans—err, STELA—continue with **NAB** and **Mediacom** swapping comments Tues. In a letter to interim FCC chair *Mignon Clyburn*’s chief of staff Mon, Mediacom gen counsel *Joseph Young* chastised NAB for claiming there is no such thing as a “blackout,” saying over-the-air antenna reception is not always available and that switching MVPDs isn’t always easy. Young also declared that broadcasters are addicted to retrans fees. NAB evp, comm *Dennis Wharton* cited BIA Kelsey figures that showed the broadcast business was receiving 7.3% of all revenue from retrans consent as of Apr, saying that “hardly constitutes an ‘addiction’ to retransmission revenues.” Wharton repeated NAB’s stance that there is no such thing as a blackout and called on MVPDs to end the practice of charging early termination fees (a practice that not all employ, particularly on the cable side).

Aereo: Houston, we have lift off... Streaming start-up **Aereo** launched in the greater Houston area this week. The service is also available in NYC, Boston, Atlanta, Miami, all of Utah and Chicago, with an additional launch coming soon to DC.

TV Decency: More than 70 group leaders are asking Senate Commerce to question **FCC** Republican nominee *Michael O’Rielly* on TV decency enforcement at his nomination hearing Wed. In a letter to committee leaders, the groups said they are particularly concerned about the direction of the FCC after *President Obama*’s pick to head the Commission, *Tom Wheeler*, refused to commit to decency enforcement during his hearing before the committee. “Federal law gives the American public the right to decency on broadcast TV and millions of Americans will soon begin pressing the FCC to have that right vindicated,” *Patrick Trueman*, pres of **Morality in Media** said. Other groups signing the letter include **The Parents TV Council**, **Focus on the Family** and **Women for Decency**.

Piracy: The piracy problem continues to grow worldwide as Internet usage grows rapidly, according to an **NBCU**-commissioned study that’s dropping right before a Wed House Judiciary Subcmte hearing to examine the role of voluntary agreements in the intellectual property system. Despite limited success fighting infringement, “the piracy universe not only persists in attracting more users year on year but hungrily consumes increasing amounts of bandwidth,” said the study from **NetNames**, which manages domain names and offers online security and anti-piracy services. In Jan alone, some 432mln unique Internet users explicitly sought infringing content. That includes 327mln unique Internet users across North America, EU and Asia-Pacific, representing 25.9% of the total population in these 3 regions. In the same 3 regions, 23.8% of the total bandwidth used by all Internet users was consumed by infringing content.

TVE: **ESPN Deportes** and **ESPNEWS** can now be accessed by **AT&T U-verse** subs online through WatchESPN.com, on smartphones and tablets via the WatchESPN app. Other ESPN nets, including **ESPNU**, **ESPN3** and **ESPN Goal Line/Buzzer Beater** are also available across platforms to U-verse subs.

Mentoring: The 3rd year of the **ACC** Mentor Program, which runs for 1 year, is now open for applications. The ’13-’14 program features top cable communications execs, such as **Nat Geo**’s *Chris Albert*, **Crown Media**’s *Annie Howell* and **AMC Nets**’ *Jim Maiella*, who have volunteered to be paired as mentors. The deadline for application is Oct 1.

Programming: **AMC Networks** expanded the final season of “Mad Men” to 14 eps with 7 airing in spring and the final 7

BUSINESS & FINANCE

airing in the spring of '15. -- HGTV's "Kitchen Cousins" *John Colaneri* and *Anthony Carrino* return to the net in their new series "Cousins Undercover" on Oct 6. -- **Syfy** acquired the 1st season of the new Canadian scripted series "Bitten" from indie studio **Entertainment One**. The 13 one-hour eps premiere next year. -- **Showtime** will debut its acquired documentary "Roman Polanski: Odd Man Out" on Fri. -- **Fox Sports** inked a multiplatform deal with the **World Boxing Council** to bring the recently created, 24-card "WBC World Cup of Professional Boxing" to the Fox Sports family of networks, starting Oct 18. The deal includes exclusive broadcast rights in the US, where fights air on the newly launched **Fox Sports 1**, **Fox Sports 2** and **Fox Deportes**. The exclusive rights also apply in the Caribbean through Fox Sports 2 and Fox Deportes, while non-exclusive rights apply in the Dominican Republic and Cuba.

People: **DISH's** board named *George Brokaw*, managing dir of the **High-bridge Growth Equity Fund**, as an independent member effective Oct 7. -- *Doug Shapiro*, who has served as **Time Warner's** svp, investor relations since '08, was named svp, intl and corporate strategy. He succeeds *Michael Del Nin*, who resigned to become co-CEO of **Central European Media Enterprises**. *Michael Kopelman*, now **Time Warner's** vp, IR, succeeds *Shapiro*. -- **Oxygen Media** named *Jennifer Young* vp, ad sales marketing.

CableFAX Daily Stockwatch

Company	09/17 Close	1-Day Ch	Company	09/17 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
21ST CENTURY FOX:	32.59	(0.01)	ECHOSTAR:	43.08	UNCH
DIRECTV:	62.40	0.48	GOOGLE:	886.11	(1.65)
DISH:	47.25	0.31	HARMONIC:	7.61	0.09
DISNEY:	66.98	0.04	INTEL:	23.74	0.35
GE:	24.45	0.31	JDSU:	15.20	0.22
MSOS					
CABLEVISION:	17.45	(0.2)	LEVEL 3:	26.40	0.44
CHARTER:	130.26	1.08	MICROSOFT:	32.93	0.13
COMCAST:	44.45	0.03	NIELSEN:	36.39	0.79
COMCAST SPCL:	43.10	0.06	RENTRAK:	32.49	0.42
GCI:	9.16	0.08	SEACHANGE:	11.74	0.22
LIBERTY GLOBAL:	79.37	1.52	SONY:	21.66	0.20
LIBERTY INT:	23.79	0.27	SPRINT NEXTEL:	6.39	(0.25)
SHAW COMM:	23.55	0.12	TIVO:	12.29	0.14
TIME WARNER CABLE:	113.51	1.19	UNIVERSAL ELEC:	32.13	0.91
WASH POST:	576.02	(3.1)	VONAGE:	3.05	(0.04)
PROGRAMMING					
AMC NETWORKS:	65.50	2.76	YAHOO:	30.00	0.38
CBS:	56.39	0.45	TELCOS		
CROWN:	3.24	0.08	AT&T:	34.75	0.18
DISCOVERY:	79.49	0.84	VERIZON:	48.57	0.27
GRUPO TELEVISIA:	28.41	0.24	MARKET INDICES		
HSN:	54.40	(0.36)	DOW:	15529.73	34.95
INTERACTIVE CORP:	53.62	0.22	NASDAQ:	3745.70	27.85
LIONSGATE:	37.00	(0.45)	S&P 500:	1704.76	7.16
MADISON SQUARE GARDEN:	56.70	0.78			
SCRIPPS INT:	76.73	1.18			
STARZ:	26.73	0.15			
TIME WARNER:	62.90	0.18			
VALUEVISION:	4.42	0.08			
VIACOM:	83.65	0.42			
WWE:	9.83	0.04			
TECHNOLOGY					
ADVANTAGE:	2.44	0.01			
ALCATEL LUCENT:	3.40	0.07			
AMDOCS:	37.15	(0.1)			
AMPHENOL:	78.12	0.04			
AOL:	34.07	0.27			
APPLE:	455.32	5.20			
ARRIS GROUP:	16.51	0.08			
AVID TECH:	5.22	(0.08)			
BLNDER TONGUE:	0.93	UNCH			
BROADCOM:	27.45	0.54			
CISCO:	24.37	(0.01)			
CONCURRENT:	7.77	0.22			
CONVERGYS:	18.85	0.20			
CSG SYSTEMS:	24.14	0.16			



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