

# CableFAX Daily™

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What the Industry Reads First

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## No Likey: GOP Vetoes Net Neutrality Compromise, Waxman Backs Reclassification

Republicans balked Wed at draft net neutrality legislation from **House Commerce** chmn *Henry Waxman* (D-CA), with the effort collapsing like a house of cards. Without bipartisan support for the bill, Waxman is calling for reclassification or broadband service. "If our efforts to find bipartisan consensus fail, the **FCC** should move forward under Title II. The bottom line is that we must protect the open Internet. If Congress can't act, the FCC must," he said. While Commerce's Ranking Member *Joe Barton* (R-TX) said that he appreciated Waxman's efforts to craft a congressional solution to the "problem the **FCC** has created by attempting to reclassify broadband Internet service," he and GOP leadership believe there isn't time to ensure the proposal doesn't "chill" Internet innovation. "It is not appropriate to give the FCC authority to regulate the Internet. If the Congress wants to prevent the FCC reclassifying internet service under Title II it should go ahead and do so without qualification," Barton said. The Waxman proposal would let the FCC codify its existing open Internet principles and evaluate possible violations (and fine them) on a case-by-case basis for 2 years, while also preventing the Commission from reclassifying broadband under the more burdensome Title II during that period. Cable, phone, tech and consumer reps have been meeting for weeks to help with the compromise, with Waxman saying that legislation would have only been introduced with the backing of Barton and Ranking Communications Member *Cliff Stearns* (R-FL). "Under this proposal, both sides would emerge as winners. Consumers would win protections that preserve the openness of the Internet, while the Internet service providers would receive relief from their fears of reclassification," Waxman said. Adding another nail to the coffin is a statement from **House Communications** subcmte chmn *Rick Boucher* (D-VA). "I am disappointed that we were unable to introduce the Open Internet Act of 2010 on a bipartisan basis. The measure would have been a significant step forward for the Internet community, and I remain willing to work with my colleagues on both sides of the aisle to enact it into law later this year," he said. It could be taken up during the lame duck session, but many think that's a stretch. Waxman said he doesn't close the door on moving legislation this Congress, saying "cooler heads may prevail after the elections... If the majority wants to work on a solution to continue a free and open Internet, let's consider the issue deliberately, rather than punting with a halfway measure two days before the end of Congress," Barton said.

**Advertising:** Confirming comments **Canoe's** *David Verklin* reportedly made at an event in NY this week, **Style** and **E!** said they have interactive ads ready to go today and are actively in the marketplace discussing sales opportunities. "We are firm believers in Canoe's ITV solutions as a way to enhance viewer engagement and better connect viewers with our advertising partners," a **Comcast Nets** spokesperson said. Verklin said **AMC**, **Discovery** and 2 **NBCU** nets are expected to be ready to run spots before year-end. -- **Rainbow Media** tapped the **BlackArrow Advanced Advertising System** for a multi-phase trial of dynamic VOD ads. Currently underway, the trial features exploration of impression-based reporting and real-time campaign selection based on content targeting, viewed daypart, anonymous demo data and other factors.



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**Speed Test:** Remember the FCC's call for 10K volunteers to have specialized hardware installed in their homes to test broadband speed (*Cfax*, 6/2)? It's moving closer to reality. "We have continued to make progress, are getting close to sending out an initial shipment of measurement nodes and expect to have them all shipped by the end of the year," Joel Gurin, chief of the Consumer and Governmental Affairs Bureau tells us. "Stable testing will begin January of next year with the remainder of this year reserved for operation testing. Participation of ISPs in this effort continues and a number of additional measurement nodes have been included as a result."

**Human Capital:** Many positives emerged from CTHRA's '10 Human Capital Metrics Survey (based on '09), including a 12% YOY decrease in cable's cost/hire to \$4,055, a drop in overall annual turnover rate (voluntary and involuntary) to 12.5% from 15.7%, and sizable YOY jumps in rev/full-time employee of \$1.03mIn (+37%) and net income/full-time employee of \$425K (+34%). And save for cost/hire, cable trumped a comparative basket of large-staff firms from various sectors in all the above metrics, and in most cases handily. Also of note: survey participants (7 programmers, 6 ops) hired an avg of 3,566 new employees last year, 72% of which were replacement hires and the remainder due to business growth. [For more info, log into CableFAXDaily.com].

**On the Hill:** The House gave final passage Tues night to the 21st Century Communications and Video Accessibility Act, which is aimed at making it easier for the blind and deaf to access the Web, TV and other tech. It now awaits Pres Obama's signature. Components of the bill include closed captioning for online video. Applauding Congress for approving the bill, NCTA's Kyle McSarrow said it "will aid millions of Americans with disabilities in enjoying cable programming and services."

**In the States:** ABC Owned Stations Group's multicast service Live Well Network picked up some affiliates beyond the ABC O&Os. Belo's WFAA-TV Dallas-Fort Worth, KMOV-TV St. Louis, WWL-TV New Orleans, WVEC-TV Hampton-Norfolk and WCNC-TV Charlotte will start carrying the digital channel Nov 8. Discussions are under way with other markets. Belo recently reached a tentative retrans deal with Time Warner Cable, which includes the Charlotte and Dallas-Ft Worth stations. TWC currently carries Belo's multicast signals, so presumably it will have the Live Well Network when it launches. -- WCMH-TV in Columbus, OH, became the 1st Media General station to launch mobile digital TV, a real-time local broadcast service available on receptive laptops, mobile phones and other portable devices. -- Now serving online videos from the Sony, Universal and EMI labels, Vevo plans a foray into TV, according to reports stating the service sees opportunity in music-based linear content as MTV has branched into other genres. No agreements yet with multichannel ops, but the company is in talks with manufacturers of Web-connected TVs.

**Catch-22:** Spurred by a breach-of-contract lawsuit filed by Discovery Channel, the net's "Deadliest Catch," its highest-rated series, faces an uncertain future. Following the death of Capt Phil Harris, the show just lost 3 other featured stars due to the litigation, which claims Captains Johnathan and Andy Hillstrand failed to complete a spin-off entitled "Hillstranded" and seeks \$3mIn in damages. In a joint release Tues, Capt Sig Hansen joined the Hillstrands in announcing their departure from the show, citing the suit as cause. 3 original capts remain. Discovery declined to comment.

**Ratings:** Whatever label is assigned to potential reasoning—Pack Attack, Bears Blitz—the results of ESPN's Mon night Packers-Bears game deserve marquee status given their inclusion of 17.45mIn total viewers, 12.48mIn homes and a 10.8 HH coverage rating in the US. All told, the numbers mark cable's biggest audience of '10 and 5th most-watched

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**NewWave Communications - Independent Operator of the Year**

Accepting: Jim Gleason, President & CEO

# BUSINESS & FINANCE

program ever among both HHs and viewers (excluding breaking news).

**On The Circuit:** We've been to many local events, but none touched us more than one Tues night at Walter Reed Army Medical Center in DC. Volunteers from **Military Channel** and **Discovery's** Veteran's Group served a delicious tailgate BBQ dinner to recovering wounded veterans and their families in residence at Mologne House Hotel on the Walter Reed campus. Volunteers also distributed Military Channel shirts, hats, footballs and Discovery DVDs. As many vets and their families told us, it was a welcome relief from the grind of rehab and a great chance to relax.

**People:** ESPN filled the svp, marketing spot, which has been vacant since *Katie Lacey* left last fall (*Cfax*, 11/23).

**Coke** exec *Carol Kruse* will start the job Oct 25. Fast fact: Kruse led her team in the development of the "My Coke Rewards" loyalty program, which has more than 14mln members. -- Former **NTIA** adviser *Michelle Carey* was named deputy chief of the **FCC's** Media Bureau. Ex **Microsoft** gm *Michael McKenzie* was named deputy chief of the Wireless Bureau and sr adviser on new tech.

**Business/Finance:** **GSN** acquired for an undisclosed amount **CPM-Star**, a marketing network for online content delivering more than 5bln ad impressions/month. The net said the purchase makes it the largest ad network for games.

## CableFAX Daily Stockwatch

Company	09/29 Close	1-Day Ch	Company	09/29 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DIRECTV:	41.99	0.01	ARRIS GROUP:	9.76	(0.02)
DISH:	19.34	0.20	AVID TECH:	13.14	0.32
DISNEY:	33.01	(0.21)	BIGBAND:	2.84	0.00
GE:	16.36	(0.08)	BLNDER TONGUE:	2.41	(0.09)
NEWS CORP:	15.28	(0.34)	BROADCOM:	35.09	0.45
<b>MSOS</b>					
CABLEVISION:	25.96	(0.21)	CISCO:	21.87	0.01
CHARTER:	33.34	(0.15)	CLEARWIRE:	7.93	(0.08)
COMCAST:	18.15	(0.18)	COMMSCOPE:	23.75	0.37
COMCAST SPCL:	17.08	(0.23)	CONCURRENT:	6.80	0.20
GCI:	10.02	(0.1)	CONVERGYS:	10.36	(0.18)
KNOWLOGY:	13.39	0.09	CSG SYSTEMS:	18.22	(0.32)
LIBERTY CAPITAL:	52.88	0.67	ECHOSTAR:	18.98	(0.13)
LIBERTY GLOBAL:	30.84	(0.21)	GOOGLE:	527.69	0.52
LIBERTY INT:	13.84	0.05	HARMONIC:	6.68	0.09
MEDIACOM:	6.70	0.01	INTEL:	19.24	(0.27)
SHAW COMM:	21.84	0.02	JDSU:	12.82	0.55
TIME WARNER CABLE:	54.42	(0.31)	LEVEL 3:	0.94	(0.01)
VIRGIN MEDIA:	22.88	(0.03)	MICROSOFT:	24.50	(0.18)
WASH POST:	390.05	(0.58)	MOTOROLA:	8.56	(0.02)
<b>PROGRAMMING</b>					
CBS:	15.82	(0.21)	RENTRAK:	25.79	(0.06)
CROWN:	2.40	0.03	SEACHANGE:	7.42	(0.1)
DISCOVERY:	43.50	(0.19)	SONY:	31.45	0.68
GRUPO TELEVISIA:	18.91	0.09	SPRINT NEXTEL:	4.60	0.00
HSN:	30.11	0.14	THOMAS & BETTS:	41.18	0.06
INTERACTIVE CORP:	26.64	(0.38)	TIVO:	9.14	(0.03)
LIBERTY:	37.96	0.23	TOLLGRADE:	7.26	(0.02)
LIBERTY STARZ:	64.89	0.89	UNIVERSAL ELEC:	20.59	0.37
LIONSGATE:	7.31	0.05	VONAGE:	2.56	(0.01)
LODGENET:	3.06	(0.17)	YAHOO:	14.34	(0.05)
NEW FRONTIER:	1.80	0.05	<b>TELCOS</b>		
OUTDOOR:	5.62	0.07	AT&T:	28.71	(0.21)
PLAYBOY:	5.13	0.03	QWEST:	6.28	(0.06)
SCRIPPS INT:	47.60	0.56	VERIZON:	32.66	(0.06)
TIME WARNER:	30.69	(0.28)	<b>MARKET INDICES</b>		
VALUEVISION:	1.88	(0.01)	Dow:	10835.28	(22.86)
VIACOM:	40.15	(0.27)	NASDAQ:	2376.56	(3.03)
WWE:	13.90	0.09	S&P 500:	1144.73	(2.97)
<b>TECHNOLOGY</b>					
ADC:	12.68	0.00			
ADVANTAGE:	2.98	(0.02)			
ALCATEL LUCENT:	3.35	(0.04)			
AMDOCS:	28.71	0.33			
AMPHENOL:	49.18	0.26			
AOL:	25.26	1.11			
APPLE:	287.37	0.51			

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## Think about that for a minute...

### About Face

Time tends to change one's perspective. In the case of the ongoing battle over "net neutrality," we may have just seen one of those critical junctures where time has allowed the debate to proceed to the point where the various players are all seeing things from new vantage points. The result may well be significant changes in positions.

Of course, time is not the change-factor in and of itself. It simply allows other things to happen that leaven the discussion, adding new ingredients that cause different reactions. The government just added a new ingredient to the debate that has certainly given the pro-regulation activists pause, with good reason.



**Steve Effros**

News reports now suggest the government is considering legislation that would in essence extend the ability of law enforcement authorities to "tap" the Internet. It's much more complicated than that, but the bottom line is that the administration wants Congress to extend the CALEA regulations that require telephone and cable companies to provide an efficient way to tap into their communications lines to include Internet communications as well.

The problems the law enforcers and national security folks face are admittedly daunting. Instead of just tapping a "bad guy's" phone, now we have Skype-like and P2P programs designed to make it almost impossible to track a source and a destination of communication over the Internet. So the government wants to get help from the broadband industry and private networks like Blackberry's, to be able to decrypt any encrypted communication going through their systems, and to make it easier to tap. All of this, of course, would only be after appropriate court orders and the like, but that's not the issue. What the government wants to do, apparently, is keep technology frozen in a mode that can be controlled, or at least monitored. It's about the most fun-

damental attack on the "free, open Internet" that you could imagine. It's free and open, but the government can insist on technical designs to monitor "private" communications any time they think it's necessary.

Here's what a spokesman for the Center for Democracy and Technology, one of the Internet "public interest" groups, had to say about the idea: "They are really asking for the authority to redesign services that take advantage of the unique, and now pervasive, architecture of the Internet," he said. "They basically want to turn back the clock and make Internet services function the way that the telephone system used to function."

But wait! Aren't these the same folks who are pushing any way they can for the FCC to adopt "Title II" common carrier (telephone) regulation so it can pursue "net neutrality"? Yes, indeed. Now those same folks—or at least some of them—are beginning to realize what that might mean. What if the government really does get a lot more regulatory control over broadband by calling it a common carrier? Could the FCC then impose the "net neutrality" rules the "public interest" lobbyists want? Well, maybe, but there would be one heck of a legal battle before it happened.

But once common carrier jurisdiction was established, could they also impose all sorts of other stuff, like the "wire tapping" rules on the web? Clearly some folks in the government think so! Grabbing regulatory authority to get what you want, it turns out, is a double-edged sword. And those pushing hard for "Title II" authority for the FCC must now be considering an "about face" on that position, given that the "sword" looks like it's suddenly swinging in their direction and aiming for the jugular.

Steve

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