

CableFAX Daily™

Thursday — October 4, 2012

What the Industry Reads First

Volume 23 / No. 192

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Tick Tock: Heated Exchanges Ahead of Fri's Exclusivity Ban Deadline

With Fri the sunset for the FCC's exclusivity ban, the heat's getting turned up for action or inaction, depending on where you fall on the issue. Congress has been largely silent, but Rep *Ed Markey* (D-MA) jumped into the fray this week to urge the extension of the rules. "Before Congress passed the Cable Act, companies seeking to enter the paid television market could not obtain **HBO**, **MTV** and similar popular programming because their competitors refused to license this programming to them," Markey, principal author of the '92 Cable Act, wrote in a letter to the FCC. "Today, if the rules were allowed to expire, a vertically integrated company could deny competitors must-have programming, such as the sporting events featuring the L.A. Lakers, Houston Astros and Rockets, or the Chicago Cubs and Bulls." Cable has maintained for years that the need for the ban has passed, with **Comcast** and **Cablevision** unsuccessfully suing over its 5-year extension in '07. The FCC chmn has circulated an order that would allow the ban to expire, but allows MVPDs to file complaints on a case-by-case basis. **DirecTV**, **ACA**, **USTelecom** and others have spoken out against allowing the ban to sunset. If it does expire, they want the FCC to step in and adopt various rebuttable presumptions, including one that says exclusive arrangements of sports contracts are unfair and hinder competition. **NCTA** responded in a filing Wed that attempted to bat down what it called competitors' "last-ditch" efforts to get the FCC to "once again extend their regulatory advantage." "Whether or not exclusive contracts are pro-competitive or anticompetitive —fair or unfair—can only be assessed on a case-by-case basis; there is no evidence on which the Commission could justify a presumption of unfairness," NCTA said. The cable trade group singled out USTelecom, saying its arguments boil down to having the Commission prejudge in favor of competing MVPDs in virtually all of the key issues relevant to assessing the competitive impact of an exclusive contract. USTelecom along with ACA, **Verizon**, **DISH**, **AT&T**, **CenturyLink**, DirecTV and others are part of the **Coalition for Competitive Access to Content**. The group supports a carve-out for sports as well as popular nets, such as the 20 national nets with the highest ratings. It also calls for a 60-day shot-clock for complaints from new entrants seeking programming contracts and a presumption supporting standstill relief. NCTA argued against every proposal, and ultimately declared that there is no basis for adopting any of the proposals because there wasn't adequate notice that the FCC was considering them. CA2C issued its own statement Wed: "While we are deeply concerned about reports regarding the direction the Commission's delibera-

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tions may be taking, we are hopeful that Chairman Genachowski and his fellow Commissioners will heed the advice of Congressman Markey as they complete their deliberations on the rule." Other bickering in the docket is seen between **Time Warner Cable** and DirecTV. The MSO takes issue with an economic analysis DirecTV submitted from a professor that found it has attracted substantially more subs in San Diego in the 5 months since it gained access to Padres games. TWC is not carrying the games on Fox Sports San Diego. Look for the rhetoric to ratchet up ahead of Fri's deadline.

More 3Q Ratings: DISH subs may have lost **AMC** over the summer, but the net didn't take a big tumble in ratings. AMC's 3Q HH prime rating average of 0.88 is even up a smidge (6%) over 3Q11, while total viewers in prime dropped 3% to 1.01mln, according to an **ABC/Disney** analysis of **Nielsen** data. **Viacom** nets, which were off **DirectTV** for 9 days in July during a contract fight, had bigger drops. **MTV's** prime HH rating average fell 35% to 0.7 from 1.07. Total viewers in prime fell 37% to 852K. **Nick's** HH rating fell 22% in total day to 1.23, with total viewers off 23% at 1.66mln. **Comedy Central** wasn't unscathed either, with total viewers down 27% in prime vs 3Q11 (758KK).

In the States: **Cablevision** started to roll out its cloud-based Optimum Program Guide to its NY Long Island subs Wed, according to CVC-owned *Newsday*. Subs can choose different ways information is displayed in their program guide. The guide, which has been called Onyx internally and in calls with investors, is the culmination of more than 3 years of development work, *Kristin Dolan*, sr evp, product management and marketing, has said (*Cfax*, 9/7). It allows for better and easier navigation around Cablevision's core video product, according to Dolan.

ROI of Turtles: At a Wed Ad Week panel in New York we learned **Time Warner Cable** Media pres *Joan Gillman* has a turtle, and "it's actually very bad ROI"—when you factor in the cleaning required and money spent on food. But when she looks at her childrens' faces, it's good ROI. The point being: The old ROI model needs to be recalculated to incorporate goals beyond the monetary. *Craig Woerz*, co-founder and managing partner for ad agency **Media Storm**, cited pressure "to generate immense amount of return... We're not being challenged by the CMO anymore. It's really the CFO that has a gun to our head." What's crucial is defining ROI from the outset, since "every advertiser defines it differently," said *Michael Bologna*, managing partner and director of emerging communications, **Group M**. "It's very hard to calculate by media channel and media placement," he added, and brand awareness is particularly hard to measure. "The old formula doesn't work for all of these new channels... It's increasingly more important to understand each media channel" and measure which channels are functioning best so that creative—or simply the call to action—can be adjusted in the next wave. Gillman noted that with some of the MSO's smaller, start-up clients, each partner is able to define specific objectives on the outset. But that also means the demand for their services is higher. "Our team has to take time to draw out from them what they need," she said. "What's exciting about that is there are a lot more inputs to say ROI is more than financial."

Deals: **T-Mobile USA** and prepaid carrier **MetroPCS**, both opponents of **Verizon's** spectrum transaction with **Time Warner Cable**, **Comcast**, **Cox** and **Bright House Networks**, are merging. T-Mobile parent **Deutsche Telekom** will own 74% of the combined company, which will be called T-Mobile. The combined company will have a total of 42.5mln subs, making it the 4th largest mobile carriers in the U.S.

At the Portals: The **FCC** reminded everyone that closed captioning rules went into effect Sept 30 for distributors of certain Internet video programming. The rules apply to programming that is shown on TV with closed captions on or after Sept 30, programming that is added to the online distributor's inventory on or after Sept 30 and programming that is not substantially edited for the Internet. -- Winners of the **FCC's** 1st Mobility Fund auction range from national carriers like **T-Mobile USA** and **US Cellular** to smaller carriers like **Pine Belt Cellular** in AL and **VTel Wireless** in VT, the FCC said Wed. The auction was part of the agency's USF overhaul, which allocated \$300mln to the new Mobility Fund aimed at closing gaps in mobile coverage across the US.

Fox Doings: As part of the consolidation of **Fox Networks'** regional sales team, *Chris Killebrew*, previously Southern regional vp, distribution, and *Bill Lyons*, previously Northeast regional vp, distribution, were promoted to senior regional vps, distribution. Also as part of the restructuring, *Steve Carcano*, svp, distribution, will assist *Mike Biard*, evp, distribution with oversight of the division's regional sales team. In addition, *Oren Lieber* was promoted to svp, distribution.

Ratings: **Hallmark Channel's** new daytime programming delivered solid ratings. "Marie," a daily 1-hour talk show hosted by performer *Marie Osmond* scored 95K W25-54 during the 12pm to 1pm block. "Home & Family," a 2-hour program host-


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ed by Mark Steines and Paige Davis drew 41K W25-54 during the 10am to 12 pm block. -- Tues' Red Sox-Yankees game averaged 698K total viewers on **YES** (6.87 HH rating) for the NY DMA, making it the most-viewed program on the net since the Sept 1 Yankees-Red Sox match-up (733K total viewers). -- "The Incredible Dr Pol" delivered **Nat Geo Wild** its best-rated telecast ever, with Sat's ep scoring a 0.4 rating among 25-54s. -- The Seattle vs Green Bay game on **ESPN** saw probably the worse **NFL** call... and the best ratings during the week of Sept 24. With an average of more than 8mln viewers, the game topped **Nielsen's** top cable programs. When it comes to the top DVRed cable shows during the week of Sept 10, **FX** replaced **USA** to be the #1 on the list with the 1st ep of "Sons of Anarchy" season 5. Meanwhile, **Universal's** "Snow White and the Huntsman" is the #1 VOD movie title during the week ending Sept 23, according to the latest data provided by **Rentrak**. Check out the latest ratings at **CableFAXDaily.com**

Programming: Syfy acquired Canadian sci-fi series "Primeval: New World," a spin-off of the British series "Primeval." The series will premiere in '13. -- **Adult Swim** picked up live-action comedies "Childrens Hospital," and "NTSF:SD:SUV:." for an additional season of each. All new eps continue to air Thurs nights at midnight and 12:15am, respectively. The new season will premiere in '13.

CableFAX Daily Stockwatch

Company	10/03 Close	1-Day Ch	Company	10/03 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	52.62	0.51	CONCURRENT:	4.88	0.23
DISH:	31.93	1.24	CONVERGYS:	15.50	(0.02)
DISNEY:	52.47	0.83	CSG SYSTEMS:	22.70	0.05
GE:	22.91	0.12	ECHOSTAR:	29.43	(0.1)
NEWS CORP:	25.10	0.19	GOOGLE:	762.50	5.51
MSOS					
CABLEVISION:	16.47	0.33	HARMONIC:	4.45	0.01
CHARTER:	76.76	1.26	INTEL:	22.55	(0.29)
COMCAST:	36.20	0.35	JDSU:	11.75	0.07
COMCAST SPCL:	35.05	0.27	LEVEL 3:	21.84	(0.48)
GCI:	10.05	UNCH	MICROSOFT:	29.86	0.20
LIBERTY GLOBAL:	61.85	0.35	RENTRAK:	16.84	(0.22)
LIBERTY INT:	18.81	0.09	SEACHANGE:	8.37	0.32
SHAW COMM:	20.53	(0.11)	SONY:	11.89	0.04
TIME WARNER CABLE:	98.31	0.15	SPRINT NEXTEL:	5.20	0.30
VIRGIN MEDIA:	30.26	0.34	TIVO:	10.36	(0.16)
WASH POST:	361.44	(4.56)	UNIVERSAL ELEC:	18.76	0.39
PROGRAMMING					
AMC NETWORKS:	43.52	0.23	VONAGE:	2.30	0.02
CBS:	34.85	(0.14)	YAHOO:	16.21	0.27
CROWN:	1.68	UNCH	TELCOS		
DISCOVERY:	60.18	0.36	AT&T:	38.17	0.36
GRUPO TELEVISIA:	23.32	(0.22)	VERIZON:	46.28	0.42
HSN:	48.67	0.06	MARKET INDICES		
INTERACTIVE CORP:	53.60	0.83	DOW:	13494.61	12.25
LIONSGATE:	15.76	0.54	NASDAQ:	3135.23	15.19
LODGENET:	0.64	0.07	S&P 500:	1450.99	5.24
NEW FRONTIER:	1.23	UNCH	TECHNOLOGY		
OUTDOOR:	7.28	(0.06)	ADVANTAGE:	2.10	(0.09)
SCRIPPS INT:	62.81	0.49	ALCATEL LUCENT:	1.06	UNCH
TIME WARNER:	45.80	0.50	AMDOCS:	33.07	0.18
VALUEVISION:	2.29	0.03	AMPHENOL:	58.23	0.26
VIACOM:	55.30	0.56	AOL:	36.17	0.17
WWE:	8.11	(0.06)	APPLE:	671.45	10.14
MARKET INDICES					
			ARRIS GROUP:	12.66	(0.11)
			AVID TECH:	9.51	(0.04)
			BLNDER TONGUE:	1.25	0.09
			BROADCOM:	33.98	(0.08)
			CISCO:	18.93	0.06
			CLEARWIRE:	1.34	(0.02)



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Think about that for a minute...

Sunscreen

Commentary by Steve Effros

SPF 35? Won't help. Explaining what's about to happen? That might do some good, although I have to admit it will be limited. The most likely first reaction from some customers will be "...there they go again!" It's just part of the reality of providing what folks consider a necessity; cable.

Twice a year a very natural event takes place that we can't do anything about. The Sun lines up directly behind a communications satellite, and the Sun's radiation has a tendency to overpower the signal from the satellite and there is a brief outage. Anyone using communications satellites will experience that outage, and it essentially corrects itself. But it does mean that folks will lose television reception on some channels for a short time, and we all know what that means; the "cable guy" might start getting lots of calls.



Hopefully, the outages don't happen during the final inning of a critical game. The most likely time for outages this year is coming up between October 4 and 12. Cablevision has a very helpful online chart showing those times (<http://optimum.com/sun-outage.jsp>), and they wisely sent a note to all their customers letting them know what might be coming. I am sure other companies have done the same, or if you haven't, you might think about doing so.

I know it sounds cynical, or maybe resigned, but after more than 40 years of watching this happen, I'm a little dubious about initial customer reactions to these sorts of things. It's somewhat like the situation when we try to explain potential pending legislation that might not be in the customer's best interest. It's very rare that the email goes viral in the direction of supporting what we are say-

ing. Rather, it might be best if someone else said it.

So here's a suggestion; talk to your local television weather folks. The stations, after all, rely on those satellites too, so they are potentially going to have the same problems. See if you can get them to do some stories on the effect of the Sun lining up behind the satellites. Get them to note what happens, and then the information will be received by customers from a "neutral" source.

Of course that's not to say you shouldn't communicate directly with your customers, you should. But having the information come from more than one direction always works better. And in this case, I'd let your local consumer reporters on the newspaper know as well.

This is a case of "couldn't hurt." In other words, the reality is nothing may happen. The satellites may work just fine, or the times of the brief outages may be so limited that virtually nobody notices. But it's simply a good idea to keep customers informed, and maybe it will sensitize everyone a little bit to how complicated and interrelated the system is that we use to deliver their television to them. That would be a good thing.

The point that our infrastructure is both sophisticated and complicated is one that we are going to have to delve into a lot more in the next year, and make sure our legislators and regulators—not to mention the reporters, town officials and customers—understand. We are at the beginning of the process of a new telecommunications policy debate. It's going to mix up television, the Internet, telephone, and lots of other things. Thinking that cable's "just a wire" when it comes to legislation, is like going out in the sun without sunscreen. We have to make sure that doesn't happen.

Steve

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(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry)

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