

CableFAX Daily™

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What the Industry Reads First

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At Last: ALJ Explains Why WealthTV Complaint Shouldn't Be Granted

We told you last week that cable ops were the winners in a long-awaited FCC ALJ recommended decision regarding WealthTV's program access complaints (*Cfax*, 10/9). Now that the redacted decision has actually been released, we can tell you that **Bright House, Comcast, Cox** and **Time Warner Cable's** win was quite definitive in chief judge *Richard Sippel's* eyes. The final decision now rests with the 5 FCC commissioners who have to vote on it. Several times in his recommended decision, Sippel called into question the credibility of WealthTV witnesses—particularly over whether the net had described itself as a “male-focused channel.” Sippel said the “overwhelming weight” of the record shows that Wealth targeted a much broader audience than males 25-49. WealthTV filed program access complaints against the 4 ops, claiming they discriminated against it in favor of the male-focused **MOJO. In Demand**, which the ops own, was the parent of now-defunct MOJO. “The defendants created and carried INHD because it furthered specific, non-discriminatory business objectives. There is no credible evidence that the defendants, in deciding to carry INHD, discriminated against WealthTV or any other independent programming vendor on the basis of affiliation or non-affiliation,” Sippel wrote. He said defendants' decisions not to carry the channel were based on business reasons, noting that the net ranked a “dismal” 36th of 37 channels in a Bright House survey of most requested by HD subs. Perhaps what's most noteworthy is that the recommendation from Sippel and an earlier recommendation from the Enforcement Bureau fly directly in the face of a push last year from former FCC chmn *Kevin Martin* to have the Media Bureau rule in favor of WealthTV and provide them with carriage on the MSOs. Sippel wrote that the evidence compiled after the completion of the evidentiary hearings in Apr is “more complete, accurate and reliable than the evidence before the Media Bureau” when it issued an earlier order saying Wealth had made a prima facie case. The ALJ still has to issue a recommendation on **MASN's** complaint against Comcast. As with Wealth, the full Commission will have to vote on the recommended decision.

On the Hill: The **House Commerce Committee** approved the Satellite Home Viewer Extension and Reauthorization Act Thurs, but an amendment that would require **DISH** to accelerate carriage of public TV stations' HD signals has the DBS op concerned. Cable might be particularly interested in a change to the bill that would have the **FCC** study **Nielsen** DMAs and whether providers should be able to deliver in-state TV signals to so-called “orphaned counties” that receive out-of-state signals. As for the **PBS** HD signals, House Communications subcmte chmn *Rick Boucher* (D-VA) tried unsuccessfully to defeat the amendment from Rep *Anna Eshoo* (D-CA), but most of his fellow Dems voted for it. DISH would have to carry public TV stations' HD signals by '11 (half by '10)—ahead of a Feb 13 FCC deadline. Boucher is concerned that DISH can't meet the HD requirements in the amendment and launch local-into-local in all 210 markets. Under a provision in the bill, DISH can return to importing distant signals in some instances if it provides local-into-local in the 210 markets within 2 years of the bill's enactment. In a letter to House Commerce leadership Wed, DISH said it could not comply with the accelerated PBS HD rollout schedule in the amendment. “Moreover, we

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believe that the heavy burden that would be imposed on DISH network alone by the Eshoo Amendment raises substantial constitutional concerns under the 1st Amendment," DISH said. The bill passed out Thurs still has to be reconciled with a House Judiciary version. Sen Judiciary has passed its own version of the legislation.

New Reality: "It's the cornerstone of modern television, like it or not," **Fox Reality Channel** chief *David Lyle* said of the reality genre last year. Perhaps, but **Fox Cable Nets** has apparently decided to turn away from that modernity and shutter Fox Reality early next year. "With the changing cable landscape we've made a strategic decision to shift some resources and refocus on emerging channels," said Fox Cable in a statement. The 4-year-old net, currently in approx 50mln homes, will remain on-air until Mar 31. As for Lyle, the company said discussions are ongoing with him "about other opportunities within the Fox family." Earlier this year, Fox Reality programming chief *Bob Boden* left to head reality and game show development for **Hasbro Studios**. The news comes amid speculation of parent **News Corp's** interest in **NBCU**, and many reports Wed posited the future emergence of an outside partner for joint use of Reality's bandwidth.

Charter Reorg: Now in its 7th month of proceedings, approval of **Charter's** Reorg Plan and emergence from bankruptcy has been extended yet again (*Cfax*, 10/6). The MSO has until Nov 2 to exit bankruptcy according to a new agreement among involved parties, or until Dec 15 if Charter fails to obtain the necessary permits and regulatory approval by that date. The **NY Bankruptcy Court** handling the proceedings had scheduled for Thurs a status conference for the case.

At the Portals: The **FCC** is seeking comments on a draft of the **Berkman Center for Internet and Society's** study on broadband. Check it out at: http://www.fcc.gov/stage/pdf/Berkman_Center_Broadband_Study_13Oct09.pdf. Comments are due Nov 16.

In the States: **Wal-Mart** will launch Mon at more than 3K nationwide stores **Straight Talk**, a nationwide no-contract wireless service featuring 2 monthly plans that include mobile Web access. -- **TVGuide.com** bowed a TV listings and ent news app exclusively for **iPhone** and **iPod Touch**. -- The **ESPN Innovation Lab** officially opened Thurs at Walt Disney World Resort, where the net aims to tap the 300K youth and pro athletes who use the soon-to-be-renamed **ESPN Wide World of Sports Complex** annually to develop new products during actual game conditions that will enhance the viewer's experience. During the summer, for example, the lab produced **Ball Track**, a Doppler radar hit-tracking system that has the ability to track home runs showing the distance and height of the ball in-flight.

Programming: Cable cowboy *Ted Turner* appears on **Bloomberg TV** with anchor *Betty Liu*, Fri at 8am ET. Turner gives a **Comcast-NBCU** jv a thumbs up. "Go for it... They've got a real good cable system. And they don't have that much programming," he said, according to an excerpt of remarks. -- **Inspiration Net** will launch the 2nd season of reality series "The Uprising," Sat at 11:30m ET. -- **MTV's** "Styl'D" (Nov 1) features 5 junior stylists in competition for a contract with The Margaret Maldonado Agency.

Advertising/Marketing: **IFC** is partnering with **Porsche Cars North America** to produce a 30-min doc to support the carmaker's first 4-seat sports car, the Panamera (premiered Thurs, 10pm). Additional elements include customized vignettes featuring *Jerry Seinfeld* that will also air on **Sundance Channel**. -- **NBCU** struck a partnership with *Bon Jovi* that

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BUSINESS & FINANCE

includes appearances and performances from the band across multiple nets, including as a featured guest on **Bravo's** "Inside the Actors' Studio" and as the subject of a "USA Character Showcase." The partnership coincides with the band's Nov album release.

Online: **HRTV.com** released from the gate a broadband channel offering 24/7 streaming access to the net's linear feed for \$10/month, \$50/6 months or \$90/yr. Subs who sign up before Dec 31 will receive 1 yr for \$50.

Ratings: **ComcastSportsNet Chicago** delivered Wed night its highest Blackhawks regular-season ratings ever, a 2.70 HH rating.

Honors: On Fri, **Rainbow PUSH** will bestow its "Broadcaster of the Year" award on *Roland Martin* of **CNN** and **TV One**. -- **ACC** announced **Time Warner Cable** evp, chief comm officer *Ellen East* and **Suddenlink** Mid South Regional Mgr, community and govt relations *Maryce Cunningham* as winners of its annual Achievement Award, which recognizes individuals for outstanding contributions to the org and within cable comm.

Business/Finance: According to *Bloomberg*, **Vivendi's** board has decided to postpone a decision on what to do with its 20% stake in **NBCU**. The window in which Vivendi may officially sell that stake opens Nov 15. Meanwhile, **Citigroup** added **Comcast** to its Top Picks Live list, believing the MSO will gain control of **NBCU**.

CableFAX Daily Stockwatch

Company	10/15 Close	1-Day Ch	Company	10/15 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
BRITISH SKY:	37.29	0.73	AMPHENOL:	41.01	(0.28)
DIRECTV:	26.53	(0.19)	APPLE:	190.56	(0.73)
DISH:	18.76	(0.41)	ARRIS GROUP:	11.64	(0.14)
DISNEY:	29.23	0.32	AVID TECH:	14.99	(0.13)
GE:	16.79	(0.05)	BIGBAND:	4.33	(0.06)
NEWS CORP:	14.80	0.12	BLNDER TONGUE:	1.22	(0.01)
MSOS					
CABLEVISION:	23.76	(0.24)	BROADCOM:	30.38	(0.66)
COMCAST:	15.27	(0.09)	CISCO:	24.37	(0.01)
COMCAST SPCL:	14.67	0.02	CLEARWIRE:	8.26	0.29
GCI:	6.47	(0.15)	COMMSCOPE:	30.49	0.77
KNOLGY:	10.69	(0.21)	CONCURRENT:	4.44	(0.1)
LIBERTY CAPITAL:	21.79	(0.09)	CONVERGYS:	11.00	(0.07)
LIBERTY ENT:	30.55	0.05	CSG SYSTEMS:	16.24	0.01
LIBERTY GLOBAL:	23.17	0.44	ECHOSTAR:	20.31	0.50
LIBERTY INT:	12.22	0.10	GOOGLE:	529.91	(5.41)
MEDIACOM:	5.17	(0.16)	HARMONIC:	6.75	(0.06)
RCN:	9.70	0.21	INTEL:	20.67	(0.16)
SHAW COMM:	19.05	(0.23)	JDSU:	7.05	(0.03)
TIME WARNER CABLE:	41.26	(0.26)	LEVEL 3:	1.40	(0.01)
VIRGIN MEDIA:	14.55	0.24	MICROSOFT:	26.71	0.75
WASH POST:	481.79	6.00	MOTOROLA:	8.13	(0.28)
PROGRAMMING					
CBS:	13.23	0.71	OPENTV:	1.55	(0.01)
CROWN:	1.82	(0.01)	PHILIPS:	28.00	(0.14)
DISCOVERY:	30.01	(0.37)	RENTRAK:	18.01	0.16
EW SCRIPPS:	7.88	(0.25)	SEACHANGE:	7.97	0.00
GRUPO TELEVISA:	19.37	(0.02)	SONY:	29.22	0.66
HSN:	16.84	0.22	SPRINT NEXTEL:	3.52	(0.05)
INTERACTIVE CORP:	19.13	0.09	THOMAS & BETTS:	31.31	0.00
LIBERTY:	36.57	0.76	TIVO:	10.71	(0.05)
LODGENET:	7.34	(0.02)	TOLLGRADE:	5.83	0.17
NEW FRONTIER:	2.03	0.00	UNIVERSAL ELEC:	21.58	0.51
OUTDOOR:	6.36	(0.16)	VONAGE:	1.63	(0.03)
PLAYBOY:	3.68	(0.02)	YAHOO:	16.52	(0.43)
RHI:	3.09	0.14	TELCOS		
SCRIPPS INT:	38.39	(0.07)	AT&T:	25.91	0.08
TIME WARNER:	30.68	0.02	QWEST:	3.69	0.00
VALUEVISION:	3.77	0.01	VERIZON:	29.11	0.17
VIACOM:	30.14	(0.44)	MARKET INDICES		
WWE:	13.49	(0.18)	DOW:	10062.94	47.08
TECHNOLOGY					
3COM:	5.69	(0.15)	NASDAQ:	2173.29	1.06
ADC:	7.36	0.08			
ADVANTAGE:	2.27	0.05			
ALCATEL LUCENT:	4.75	(0.16)			
AMDOCS:	26.82	0.61			

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PROGRAMMER'S PAGE with Chad Heiges and Seth Arenstein

Who Said That?

Comedian *Jeff Dunham* has made ventriloquism cool, an impressive feat akin to igniting fervor over square dancing. He's purportedly now the 3rd-highest earning comedian in America behind *Seinfeld* and *Chris Rock*, and his Christmas special last year drew 6.6mln viewers on **Comedy Central**, a record for the net. If you're not familiar with his act, which includes an eclectic group of compelling and hilarious (and handmade) puppets, do yourself a favor and check out his clips on **YouTube**. Or, better yet, tune in to Comedy Central's "The Jeff Dunham Show" (Oct 22), both a reprisal and extension of the antics that made Dunham a wealthy man and Comedy execs no doubt very happy. During a speech/set this week at the **National Press Club** in DC, Dunham said the show features the puppet characters interacting with people "on their own," and also places himself and his characters in off-the-stage settings. For example, Achmed the Dead Terrorist (a bomber who killed himself) visits Camp Pendleton to chat with Marines, and Dunham and Walter (a sarcastic, bitter older man) attend family therapy. Sample humor from the event: Walter wonders where they are performing, and when told the proceedings are concurrently airing on **C-SPAN** he scoffs and sardonically asks if the net's slogan is "We show the crap no one else will." Achmed, meanwhile, when queried about any advice he might have for foreign relations, quips "use a condom." All this is much funnier in person, of course, when audience members can't help but marvel at Dunham's use of quick wit while retaining the puppets' character. Dunham also said that "the [show] writers and I went crazy" with heretofore minor characters Bubba J and Sweet Daddy D, a white trash beer swiller and colorful pimp, respectively. Mark my words: Daddy will slay. Dunham's promotion of the show hits Leno on Thurs (Oct 15), though for Comedy Central fans and countless others no introduction is necessary. **CH**

Highlights: "Monty Python: Almost the Truth, The Lawyer's Cut," 9pm, Sun-Fri, **IFC**. A 6-pt doc about Python? Yet it's extremely well done and "something completely different." Certainly hour 1 is, as it discusses the Pythons' childhood, comedic influences and Oxbridge years. Hour 2 about "Flying Circus" is far funnier. A bonus, IFC will run Python films and Flying Circus eps nightly. -- "The Kennedy Assassination: 24 Hrs After," Sun, 9pm, **History**. Following the excellent *JFK* special ("3 Shots That Change America"), History has another gem. The focus begins in Dallas' Parkland Hospital, and it's not pretty—*LBJ* and *Ladybird* are hustled into an anteroom, and kept in the dark; Jackie runs alongside the casket as the Secret Service bull rush it out. Unbelievably the pace intensifies when we shift to AF 1. As the plane heads to DC we hear LBJ's phone call to *Rose Kennedy*. **SA**

Worth a Look: "Dr G: America's Most Shocking Cases," Mon, 9pm, **Discovery Health** and "On The Case with Paula Zahn," Sun, 10pm ET, **Investigation Discovery**. 2 fascinating stories, perfect for TV as they feature great video. Dr G's story—a serial killer is discovered when a rookie pathologist smells cyanide—interviews the killer. Zahn's premiere is even better, with its video of a 12-hr confession. **SA**

Basic Cable Rankings
(10/05/09-10/11/09)

Mon-Sun Prime			
1	TBSC	3.9	3956
2	ESPN	3	2945
3	USA	2.2	2220
4	DSNY	2.1	2051
5	FOXN	1.7	1633
6	NAN	1.3	1302
7	A&E	1.1	1130
7	SYFY	1.1	1058
9	TOON	1	1008
9	TNT	1	986
9	FX	1	961
9	HGTV	1	952
13	LIFE	0.9	927
13	DISC	0.9	874
15	HIST	0.8	822
15	FAM	0.8	803
15	TLC	0.8	799
15	FOOD	0.8	795
15	TRU	0.8	784
15	NKJR	0.8	560
21	CMDY	0.7	690
21	SPK	0.7	672
21	BRAV	0.7	654
21	AMC	0.7	637
21	HALL	0.7	595
26	MSNB	0.6	598
26	EN	0.6	581
26	MTV	0.6	580
26	BET	0.6	579
26	LMN	0.6	414
31	CNN	0.5	502
31	VH1	0.5	499
31	TVLD	0.5	487
31	APL	0.5	446
31	WGNA	0.5	326
36	HLN	0.4	438
36	ESP2	0.4	434
36	TRAV	0.4	350
36	CMT	0.4	317
36	SOAP	0.4	309
36	OXYG	0.4	291
36	GSN	0.4	286
36	NGC	0.4	286
36	ID	0.4	196
45	SPD	0.3	242
45	WE	0.3	211

*Nielsen data supplied by ABC/Disney

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