

CableFAX Daily™

Wednesday — October 20, 2010

What the Industry Reads First

Volume 21 / No. 203

Retrans Regs: Kerry Sends Draft to FCC as Day 4 of Fox-CVC Comes & Goes

Sen *John Kerry* (D-MA) sent draft legislation Tues to the **FCC** chmn, outlining his plans to protect consumers during retrans consent disputes. It would prevent signals from being pulled until the FCC evaluates the behavior of the parties and recommends or does not recommend binding arbitration. A Kerry aide said the senator is exploring the possibility of a hearing on retrans during the lameduck session. "In the absence of FCC action, I feel a responsibility to begin to consider the smartest, least intrusive actions to reform the law," Kerry wrote, adding that the Commission has had "sufficient time" to consider comments on a petition to reform retrans and begin a process to revise its rules. For his part, FCC chmn *Julius Genachowski* said Tues that he's "deeply troubled" **Fox** and **Cablevision** are spending more time "attacking" each other than sitting at the negotiating table. "The time for petty gamesmanship is over. I have called the CEOs of both companies and reiterated the importance of reaching a deal, as many companies have done before..." he said. "We will continue to scrutinize their actions very closely." Kerry's draft outlined 4 scenarios, with the most likely being that the FCC finds both parties have negotiated in good faith but reached a true impasse. In those cases, the FCC may request that the parties submit to binding arbitration, but if either or both refuse to do so, the FCC will provide a model notice to inform consumers of the potential loss of service as well as the details of the offers on the table. If the FCC finds a distributor is negotiating in bad faith, the MVPD will have to agree to the last best offer or terminate carriage and the Commission can fine the distributor. If the Commission finds a broadcast is negotiating in bad faith, it can force binding arbitration. The same applies if neither party is negotiating in good faith. "I hope you will agree that the current process—which forces all sides and particularly consumers into lousy choices—is broken and in need of reform," Kerry wrote. "Currently, either party, sufficiently strong willed, can play a game of negotiating chicken with the consumer caught in the middle. It incentivizes conflict over negotiation." Not surprisingly, **NAB** issued a statement saying no intervention is needed. "We don't have a broken system; we have a broken pay-TV company that likes to play Washington games," said NAB evp *Dennis Wharton*. **Day 4:** Fox said the 2 sides held a "short" phone call Tues. No material progress was made, and the 2 agreed to continue talking Wed. "We remain far apart," Fox said. The 2 also continued to trade barbs back and forth, with Fox pulling the hypocrisy card on Cablevision's call for binding arbitration (ie, no arbitration for **DISH** over **MSG**) and Cablevision declaring that it has more

LAUNCH MULTI-SCREEN SERVICES FROM A SINGLE, WEB-CENTRIC BACK OFFICE PLATFORM — AND GET TO MARKET FASTER.



www.seachangetv.com/CableFax



Video. Personal. Everywhere.

Congratulate the 2010

Top Womenⁱⁿ Cable Tech

The Top Women in Cable Tech will be honored as part of the celebration for CableFAX's Most Powerful Women in Cable.

CableFAX and association partner WICT are proud to present this year's class of distinguished women working in cable technology.

Susan Adams - Comcast
Pam Arment - Pam Arment Consulting
Cathy Avgiris - Comcast
Nomi Bergman - Bright House Networks
Sabrina Calhoun - Bright House Networks
Sherita Ceasar - Comcast Corp
Laurie Dean Baird -
Turner Broadcasting System
Grace Egan - Time Warner Cable
Teresa Elder - Clearwire
Cyndee Everman - Time Warner Cable
Kristine Faulkner - Cox Communications
Charlotte Field - Comcast Corp
Yvette Gordon-Kanouff -
Sea Change International
Susan Grant - Turner Broadcasting System
Vicki Hamilton - Turner Broadcasting System
Sherisse Hawkins - Time Warner Cable

Rhonda Holt - Turner Broadcasting System
Sandy Howe - Arris
Lisa Hsia - Bravo Media
Marsha Humphreys-Gee -
Suddenlink Communications
Barbara Jaffe - HBO
Marva Johnson - Bright House Networks
Trish Jones - Turner Broadcasting System
Mari Katsunuma - Bravo Media
Jennifer Kavanagh - Oxygen Media
Charlene Keys - Time Warner Cable
Sally Kinsman - Kinsman Design Associates
Tia Lee - Suddenlink Communications
Selina Lo - Ruckus Wireless
Rhonda Lowry - Turner Broadcasting System
Tara Maitra - TiVo
Fran Mallace - Cox Media
Christy Martin - iBox

Vicki Marts - Cox Communications
Susan McLaughlin - TOA Technologies
Stephanie Mitchko - Cablevision Systems
Vikki Neil - Scripps Networks
Emily Nikoo - Blonder Tongue Labs
Pam Nobles - SCTE
Carol Pandiscia - ESPN
Rebecca Rusk Lim - Starz
Margret Schmidt - TiVo
Sandy Sexton - Scripps Networks
Veronica Sheehan -
Turner Broadcasting System
Carolyn Terry - Time Warner Cable
Mimi Thigpen - Cox Communications
Donna Thomas - Ascent Media
Aimee Viles - Bravo Media
Sue Wante - Comcast

Celebration Opportunities:

CableFAX: The Magazine Most Powerful Women Issue:

Published November 11
Sales Close: October 22
Artwork Deadline: October 28

Most Powerful Women in Cable Breakfast:

December 10 • 8:30 -10:30 a.m. • Grand Hyatt in NYC

Advertise or Sponsorship Details Contact:

Debbie Vodenos, Publisher
dvodenos@accessintel.com or 301.354.1695

Amy Abbey, Associate Publisher,
aabbey@accessintel.com or 301.354.1629

Association Partner:

CABLEFAX DAILY (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefaxdaily.com ● fax: 301.738.8453 ● Editor-in-Chief: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Exec Editor: Michael Grebb, 301.354.1790, mgrebb@accessintel.com ● Assoc Editor: Chad Heiges, 301.354.1828, cheiges@accessintel.com ● Asst VP, Ed Director: Seth Arenstein, 301/354-1782, sarenstein@accessintel.com ● Publisher: Debbie Vodenos, 301.354-1695, dvodenos@accessintel.com ● Assoc Publisher: Amy Abbey, 301.354.1629, aabbey@accessintel.com ● Marketing Dir: Carol Brault, 301.354.1763, cbrault@accessintel.com ● Prod: Joann Fato, 301.354.1681, cdaily@accessintel.com ● Diane Schwartz/VP and Group Publisher ● Subs/Client Services: 301.354.2101, fax 301.309.3847 ● Group Subs: Carol Brault, 301.354.1763, cbrault@accessintel.com

than 50 govt leaders on its binding arbitration bandwagon. Meanwhile, MSG said that it has never said it wouldn't submit to binding arbitration. "In fact, we are perfectly willing to go to binding arbitration to resolve this dispute with Dish Network," MSG said. Of course, Fox quickly released a statement arguing this was the 1st time MSG had signaled it was open to arbitration. "It is stunning to see how the Cablevision family will flip flop on any issue to achieve their transparent goal of making their own subscribers suffer long enough to force politicians to intervene," Fox said. And so it continues...

DISH-TiVo: DISH sent a letter to the Federal Circuit Tues saying it believes a recent **US Patent Trademark Office** decision is further evidence why DISH should not have been held in contempt regarding its ongoing patent dispute with **TiVo**. "To save its patent from being invalidated, TiVo made statements to the PTO that give rise to a 'prosecution disclaimer' narrowing the scope of the claims," DISH said. DISH argued that because TiVo has never shown the DBS player's product infringes on these narrowed claims, it believes the contempt order should be reversed, the injunction lifted and a new trial ordered on whether DISH infringes on the narrower claims. Earlier this month, the PTO reaffirmed the validity of all claims of TiVo's Time Warp Patent in a 2nd re-examination request by DISH. TiVo CEO *Tom Rogers*, speaking on **Fox Business** Tues, told *Liz Claman* he's confident the courts will uphold the outcome. With a court of appeals appearance slated for next month, Rogers said, "We certainly hope this is the final chapter of this long litigation."

Talking Business: For cable ops, business services represent a unique opportunity to nurture an organic and significant rev stream and perhaps even spur double digit sub growth. So it's important to note that the biggest challenge in the space is to accept the "counterintuitive dynamic" that the stronger an op's residential brand, the more it hurts in the SMB market, said **Cox** vp, acquisition & marketing sciences *Tony Maldonado* at CTAM Tues. The segments often want different things from a communications provider, he said, citing productivity as the paramount concern of businesses, not entertainment. Tailored marketing is required as a result, and although price certainly plays a role in the commercial space like it does with residential subs, that role "becomes irrelevant if reliability isn't where it's supposed to be," said Maldonado. As such, solid customer service and tech support are imperatives in the commercial market, said **Cablevision** vp, commercial markets *Stephanie Anderson*. CVC addresses these points through a commitment to completing any and all repairs within 4 hours and the provision of 24-hour monitoring. After all, as the market insurgent to telcos' incumbency, CVC works "very hard just on [customer] consideration alone," she said, adding that unique complexities define the business space, including the presence of multiple decision makers and the fact that businesses often use the Web to vet service providers. Plus, and perhaps most importantly, cable has historically scored poorly in customer service, so it's critical to "articulate the value-adds" cable can provide to lure new commercial customers, said Anderson. In a similar vein, Maldonado stressed how "the inertia is greater" in the commercial space than among residential subs, meaning it's difficult to spur a provider change. So either avoidance of a major disruptive event while acting as provider or capitalizing on one to steal an incumbent's account is key to success in the space.

Moon Rocks: It's certainly different when this publication decries New Orleans' late-night pleasures. But **CTAMers** who slept late Tues missed a terrific general session that centered on the concept of being different (the ballroom was about 65% full). In an industry where brands are accused of sameness (can you distinguish between makeover shows on one network from those on another?), Harvard Business School prof/sr assoc dean *Youngme Moon*'s discussion of why being different is important was perfectly aimed. While she didn't make recommendations specific to cable, her theses resonated. Brand managers in a crowded market can distinguish between their products, but "regular people" can't, she said. Consumers can't distinguish between 50 brands of bottled water or 24 varieties of toothpaste. Still businesses seem "obsessed" with being different from competitors. Actually, there's "a lot of sameness" out there. She asked: If you disappeared tomorrow, would your customers cry out or simply switch to another brand? There are many pressures pushing businesses to be the same, she said, including critics and even loyal customers. When firms "strive to be competitive" by improving their weaknesses, they become "well-rounded"—and less different than similarly well-rounded competitors, Moon said. But companies sometimes stand out when they embrace their weaknesses. The Mini Cooper's marketers eventually founded their marketing push on the fact that the car is smaller than any other brand. They reveled in this weakness, Moon said. Similarly, Ikea stands out by not doing what other furniture firms do (like assembly and delivery). But they also do what others don't (offer food and stuffed animals, for example). Of course, being different isn't easy, Moon conceded. It takes ideas, which sometimes seem crazy and often are snuffed out quickly

CableFAX Daily™

WHAT THE INDUSTRY READS FIRST

Every business day for over 20 years, CableFAX Daily has been bringing the industry the day's vital business and regulatory updates. We sum up the day's most pressing news as well as the strategic initiatives that are driving our dynamic cable industry forward. Our long history and deep reach within the cable sector, enables us to get the core information you need to stay on top of your industry and run your business with immediate market knowledge.

Each day in CableFAX Daily you'll get latest on:

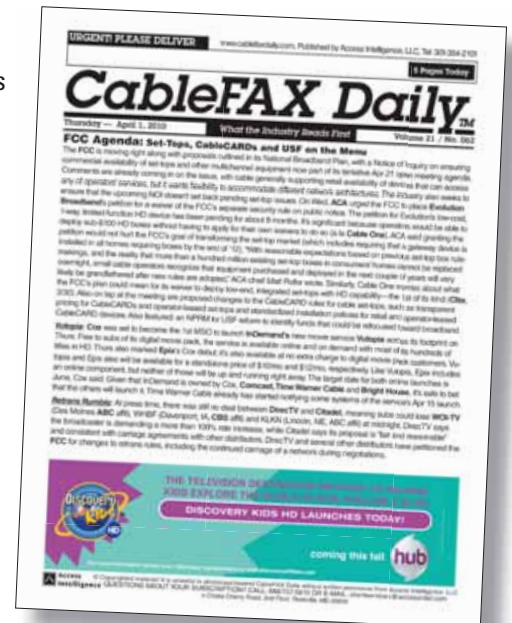
- ▶ **Regulation & the Courts** – what you must know and how it affects you
- ▶ **Telco-Cable Competition** – the latest in the battle for voice, data and video customers
- ▶ **HDTV** – carriage agreements, programming, competition from the telcos and DBS
- ▶ **Mobile platforms** – the deals, marketing, and who's doing what
- ▶ **Business & Finance** – M&A activity, stock charts, partnerships, investments, & more
- ▶ **Programming & Ratings** – launches, partnerships, winners & losers, opportunities
- ▶ **Plus, new media, digital doings, VOD and much more...**

And you'll get these regular columns:

- ▶ "Eye on Innovation"
- ▶ "Eye on Advertising"
- ▶ "Think About This for a Minute" by Steve Effros
- ▶ "Programmer's Page" by Chad Heiges and Seth Arenstein
- ▶ Stockwatch
- ▶ Week in Review

As a subscriber, you will also receive:

- ▶ Late-breaking subscriber-only news alerts that immediately alert you to critical industry happenings as soon as news is released.
- ▶ Access to CableFAX Daily archives, industry research and data on www.cablefaxdaily.com.



**Subscribe now to CableFAX Daily, and get \$200 off a 1 year subscription.
That's 249 issues for only \$995.**

CableFAX Daily will be delivered to you via email in PDF format.

Name: _____
Title: _____
Company: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Phone Number: _____
*Email: _____
(required for delivery of issues)

Important Money-Back Guarantee:

If you are ever dissatisfied with your subscription, you may cancel at any time and receive a refund for all unmailed issues.

Please fax form to 301-309-3847, or phone 1-888-707-5808 to speak with a customer service representative.

**Multi-user and site license subscriptions are also available. Please contact Carol Brault for custom pricing:
301-354-1763 or cbrault@accessintel.com**

by corporate cultures. The passionate people who propose such ideas frequently endure the same fate as their ideas. She argued for environments where seemingly crazy ideas are allowed to survive. Five years ago, would you have embraced an idea to corner the social media market by offering a 140-character limit? **Twitter** did pretty well with it.

Competition: **Verizon** said its **FiOS TV** Mobile Remote app is now available on more than 40 devices and will soon be available for download on tablets. The app lets HD subs use their phones as a TV remote control and enables customers to move photos from the device to the TV.

Broadband: There's been a lot of talk at the **FCC** about whether customers are receiving the advertised speed of their broadband service. Turns out, they just might be. **Ookla**, which is one of the companies providing speed tests at the FCC's Broadband.gov, reports that US customers are receiving roughly 93% of the advertised speeds on the tiers to which they subscribe. More details at **NCTA** blog CableTechTalk.com.

iTV: Initial views of iTV plays from customers who participated in a **Cablevision** focus group were disheartening. Some said they're probably intrusive and annoying, while other said iTV plays would make them spend a lot of money. Fortunately, the MSO, which has run approx 30 interactive campaigns simultaneously, has found that "when [customers] experience interactivity, they become believers... they all like to push buttons," said svp, marketing and business dev **Gemma Toner** at CTAM Tues. Cablevision has achieved success with RFI, commerce and content-saving iTV functionality, she said, adding that "when you're a marketer, if someone says they're interested you're halfway there." For **Starz**, interactive plays such as its "Watch Now" app, which allows viewers to restart programming and view VOD offerings, "almost help define what the channel is," said sr dir, Internet and interactive **Rebecca Rusk Lim**. The premium net feels that if all provided interactivity included ads, the customers might become turned off, she said, so a key consideration is the "enhancement to the core TV" element. Starz is currently working on another EBIF app called "Rate It!," which allows subs to rate a movie once it ends and see how others voted, and then highlights Starz VOD offerings. Keep apps simple, cautioned Rusk Lim, and try to do 1 or 2 interactive things really well instead of launching an all-out assault. Toner believes ops and programmers should maintain a commitment to branding with all iTV initiatives, and advised the 2 groups thusly: "Don't oversell it, but truly deliver." And **Media Storm** managing dir, digital **Jeremy Cornfeldt** said to push the iTV envelope through creative and new approaches. "You've got the best screen in the house" at your disposal, he said, so use it effectively.

CTAM Notebook: Getting consumers to actually experience 3DTV is perhaps the biggest key to wider adoption, Summit panelists agreed Tues. "When you see it, you want it," said **Tom Cosgrove**, pres/CEO of **3D Net**, the jv of **Discovery**, **IMAX** and **Sony**. "So for us, a big part of the marketing is getting it out there." **Phil Orlins**, coordinating producer at **ESPN 3D** and X Games, said 3DTV's current "grassroots movement" must expand for the tech to ultimately become successful, arguing that real-world demos are the best way to convince people to buy their own 3DTV sets. "Every opportunity we have to get people in front of it is important," he said. -- **Comcast's** iPad remote concept (demoed by **Brian Roberts** at the **Cable Show** in May) prompted Comcast svp, video product development **Todd Walker** to make a bold statement Tues as he recounted testing the app at home: "I won't ever use my onscreen guide to navigate TV again." He added that the concept will only get more interesting as the MSO adds new features, especially around interactive ads. "There's interesting opportunities there to go beyond where we're going today with **Canoe**," he said. That could include syncing ads between TV and the iPad, said **CableLabs** senior architect **Debbie Fitzgerald**, as well as other features like recommendation engines, personalization and social networking integration. -- **Showtime** took **CTAM's** Hall of Fame award for its multi-year "Weeds" marketing campaigns that have included many well-done on-air promos. In thanking Showtime chmn **Matt Blank** and former programming chief **Robert Greenblatt**, Showtime evp **Len Fogge** said their support of the show over the years "took us so far and, dare I say it, so high." Nice. -- To create the marketing plan for the 1st season of **HBO's** New Orleans-based drama "Treme," the network's marketers met with the series' creators to gain their input. Creators **David Simon** and **Eric Overmyer** suggested copy and even art, HBO co-pres **Eric Kessler** told a **Summit** panel Tues. Such collaborative marketing has a cultural element, too. "We want an atmosphere where [show creators] will come back to HBO," Kessler said. That **Tom Hanks** and **Steven Spielberg**, **Mike Nichols** as well as Simon and Overmyer have done multiple series with HBO illustrates the approach's success, Kessler argued. Asked whether broadcast networks collaborate on marketing with creators, Overmyer said, "The short answer is no... that's above [creators] pay grade." In a wide-ranging session, Simon and Overmyer noted HBO's gentle touch with creative types. "They don't micromanage," Simon said. "They give useful notes, but they don't force" the hottest TV trends on their shows' creators. It's been a wonderful relationship, the two said, which has allowed them to tell post-Katrina stories with attention to detail and respect for the city's well-guarded culture. "I don't care if someone in NY cries bulls--t [about the series], but I'd be horrified if people here did," Simon said. Not to worry. With Season 2 set to film in late Oct, moderator and veteran New Orleans **Times-Picayune** TV critic **Dave Walker** called local adoration of the series

BUSINESS & FINANCE

“something like I’ve never seen before.”

Ratings: Sun’s “Weeds” marathon on **TV Guide Net** delivered its highest non-Red Carpet ratings of ‘10 (2.9mln viewers and a HH coverage rating of .32). -- Game 3 of the ALCS on **TBS** notched 5.2 US rating and more than 8.2mln total viewers. Through 3 games, TBS is delivering double-digit growth in all key demos vs the net’s NLCS coverage last year.

Programming: **Bravo**’s list of development projects (all working titles) includes: “L.A. Therapists,” chronicles the personal lives of top therapists; “Miss Advised,” follows 3 single relationship experts; “The Proposal Planner,” star helps wealthy men plan wedding proposals; “The Headhuntress,” profiles L.A. corporate recruiter *Wendy Doulton*; and “What If,” follows women reconnecting to men from their past. -- Starting Nov 1, **Ovation** will provide a VOD preview of 3 of the 5 “Nutcracker” ballets debuting on the linear channel Dec 6 as part of its “Battle of the Nutcrackers: Dance Off.” -- **Conan**’s new house band for **TBS** is called what else? “The Basic Cable Band.” It will be led by *Jimmy Vivino*, former assoc music dir for **Conan**’s **NBC** gig.

Honors: **Discovery** founder/chmn *John Hendricks* will receive the Edison Achievement Award along with **Ford Motor** pres/CEO *Alan Mulally*, Apr 5 in NY. It honors leaders who have made a significant contribution to innovation, marketing and human-centered design.

CableFAX Daily Stockwatch

Company	10/19 Close	1-Day Ch	Company	10/19 Close	1-Day Ch
BROADCASTERS/DBS/MMDS			AVID TECH: 13.43(0.53)		
DIRECTV:	42.49	(0.05)	BIGBAND:	2.90	(0.04)
DISH:	19.16	0.08	BLNDER TONGUE:	2.33	(0.01)
DISNEY:	34.24	(0.51)	BROADCOM:	36.82	(0.6)
GE:	16.07	(0.18)	CISCO:	22.97	(0.33)
NEWS CORP:	15.59	(0.23)	CLEARWIRE:	6.88	(0.06)
MSOS			COMMSCOPE:	22.17	(0.52)
CABLEVISION:	26.03	(0.64)	CONCURRENT:	6.54	(0.15)
CHARTER:	33.09	0.19	CONVERGYS:	11.26	(0.28)
COMCAST:	19.11	0.10	CSG SYSTEMS:	18.92	(0.4)
COMCAST SPCL:	18.01	0.10	ECHOSTAR:	18.77	(0.34)
GCI:	10.02	(0.26)	GOOGLE:	607.83	(9.88)
KNOLGY:	14.36	(0.53)	HARMONIC:	6.82	(0.15)
LIBERTY CAPITAL:	56.92	(0.02)	INTEL:	19.21	0.02
LIBERTY GLOBAL:	33.55	0.22	JDSU:	11.40	(0.73)
LIBERTY INT:	14.01	(0.2)	LEVEL 3:	0.87	0.00
MEDIACOM:	7.07	(0.09)	MICROSOFT:	25.10	(0.72)
SHAW COMM:	22.33	(0.39)	MOTOROLA:	7.89	0.01
TIME WARNER CABLE:	57.25	(0.34)	RENTRAK:	27.00	(0.3)
VIRGIN MEDIA:	23.83	(0.11)	SEACHANGE:	7.51	(0.22)
WASH POST:	379.11	(3.46)	SONY:	32.87	(0.08)
PROGRAMMING			SPRINT NEXTEL:	4.57	UNCH
CBS:	17.12	(0.37)	THOMAS & BETTS:	43.89	(0.25)
CROWN:	3.29	(0.21)	TIVO:	10.03	(0.06)
DISCOVERY:	42.64	(0.64)	TOLLGRADE:	7.41	(0.24)
GRUPO TELEVISA:	21.84	(0.47)	UNIVERSAL ELEC:	21.39	(0.15)
HSN:	30.41	(1.27)	VONAGE:	2.64	(0.15)
INTERACTIVE CORP:	25.45	0.04	YAHOO:	15.49	(0.43)
LIBERTY:	39.29	(0.54)	TELCOS		
LIBERTY STARZ:	65.33	(1.62)	AT&T:	28.21	(0.41)
LIONSGATE:	7.48	(0.07)	QWEST:	6.29	(0.06)
LODGENET:	2.76	(0.07)	VERIZON:	32.16	(0.43)
NEW FRONTIER:	1.79	0.07	MARKET INDICES		
OUTDOOR:	5.79	(0.13)	DOW:	10978.62	(165.07)
PLAYBOY:	5.09	(0.17)	NASDAQ:	2436.95	(43.71)
SCRIPPS INT:	47.49	(0.86)	S&P 500:	1165.90	(18.81)
TIME WARNER:	31.20	(0.53)	TECHNOLOGY		
VALUEVISION:	2.40	(0.16)	ADC:	12.67	0.02
VIACOM:	40.75	(0.74)	ALCATEL LUCENT:	3.50	(0.19)
WWE:	13.84	(0.17)	AMDOCS:	29.42	(0.6)
TECHNOLOGY			AMPHENOL:	48.77	(1.12)
AOL:	25.20	(0.76)	AOL:	25.20	(0.76)
APPLE:	309.49	(8.51)	APPLE:	309.49	(8.51)
ARRIS GROUP:	9.52	(0.37)	ARRIS GROUP:	9.52	(0.37)



Deadline: November 5, 2010 • Enter At: www.CableFAX.com/BOW

CableFAX’s Best of the Web Awards is the industry’s top honor in the digital space, recognizing outstanding websites and digital initiatives among cable programmers, operators, vendors and associations.

The CableFAX Best of the Web Awards will also salute the cable executives behind the scenes who make these digital initiatives shine. The awards are presented by the most trusted information source in cable: CableFAX Daily and sister brand CableFAX: The Magazine. The winners and honorable mentions will be saluted during an awards event in April 2011 in New York City.

Deadline: November 5, 2010

Sponsorship Opportunities: Debbie Vodenos at 301-354-1695; dvodenos@accessintel.com
Entry Questions: Elizabeth Brown at 301-354-1610; ebrown@accessintel.com