

# CableFAX Daily™

Tuesday — November 13, 2007

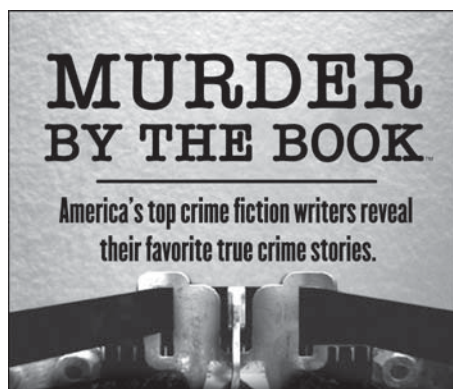
What the Industry Reads First

Volume 18 / No. 221

## That 70s Show: Martin's Plan Has Many Scratching Their Heads

Once again, the FCC chmn has turned to the media to leak a plan to go after cable. Sat's *NY Times* interview in which *Kevin Martin* pontificated on opening cable up to further regulation reminded us of the chmn's *USA Today* leak of the FCC's annual price survey around the same time last year. In that case, Martin was using the price data to support his plan to streamline video franchising rules for telcos. This year, Martin's using the Communication Act's 70/70 litmus test to justify leased access at low rates, imposing a 30% cable ownership cap (which **Comcast** is near), implementing a la carte and possibly forcing ops to carry independent nets, such as **NFL Net**. Under the rule, cable must be available to 70% of homes (which it is), but cable must also have reached 70% penetration of those homes—a percentage that some argue it's nowhere near. FCC staff estimated that figure at 56.3% in the Commission's 2005 Price Survey and 54% in the 2004 annual cable report. "We don't believe any study could conceivably satisfy the 70/70 rule," **Sanford Bernstein's Craig Moffett** said Mon. Nonetheless, the FCC's video competition report currently on circulation to the commissioners concludes that the 70/70 test has been met (wonder if that was determined before or after cable's 3Q earnings came in?). The positive news for cable is that several analysts have doubts about Martin's plan. The bad news is the regulatory question mark created for the industry at a time when share prices are suffering. "Ultimately, we would be surprised if the FCC's new approach to regulating the cable industry was enforceable," **Oppenheimer's Thomas Eagan** concluded. "It is unclear whether Kevin Martin is using the threat of these new rules to negotiate cable industry concessions on programming, such as a la carte or on retail pricing controls. Regardless, the regulatory risk for the cable operators will likely get worse before we know the answer." **Deutsche Bank's Doug Mitchelson** sent off a report Mon titled "Ferocious FCC's Bark Worse Than Its Bite," saying any significant rule changes are unlikely. Mitchelson argued, like **NCTA**, that the 70/70 rule was primarily intended to limit the programming power of vertically integrated MSOs, given that cable was the only video distributor at the time. "The only rules he could promulgate in theory would be those that address relief related to this issue, such as making sure programmers have access to those vertically integrated cable MSO subs on fair terms, and making sure the programming owned by vertically-integrated cable MSOs was accessible to others on fair terms," Mitchelson wrote. NCTA will no doubt mount an aggressive lobbying campaign against the plan—reminding us again of last year's video franchise battle that has resulted in a pending court challenge by NCTA. "We find it surprising the FCC would propose to re-regulate cable given increasing competition (DBS, RBOCs and over time, Web Video)," **Bear Stearns' Spencer Wang** said Mon. "In fact, cable basic subs have been flat to down since '00. The FCC's action also comes in stark contrast to its support of RBOC mergers."

**Falling (Echo)Star:** Echoing Wall Street's Mon sentiment, **EchoStar** CEO *Charlie Ergen* expressed deep concern over the company's 1.94% 3Q churn. As investors pummeled DISH shares—they closed at \$40.82, down 16%



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—Ergen called the customer choppiness “very disappointing” and “unacceptable.” A dearth of high-quality customers isn’t the problem, he said, but rather various factors including its pre-pay program for risky subs and lack of a serious presence within big-box retailers. “**DirectTV** performed well on churn, so that tells me we need better operations... and we’ve got to have a no-excuse mentality,” said Ergen. Needed to combat the problem, he said, is a basket of improvements: increased efficiency in customer care and installs, a stronger marketing message, and better preparation in the face of economic woes. The latter goal may be the most important, according to **Citigroup** analyst *Jason Bazinet*. “We suspect elevated rates of churn persist until the end of 2008 due to sub-prime mortgage defaults,” he wrote, downgrading EchoStar to ‘hold’ with a \$52 price target. Meanwhile, as Ergen doled out plaudits to **DirectTV** and **FiOS** for marketing and execution, he said both the pair and others may return the favor when 3 planned ‘08 satellite launches help EchoStar’s HD position to really take off. “We’re ahead of cable [right now] and on par with **DirectTV**,” said Ergen of the high-def arms race. Related to EchoStar’s proposed spin-off of tech assets, **EchoStar Technologies** is slated to receive approx \$1.4bln in cash and marketable and non-marketable investment securities a part of the transaction. “I think what’s really undervalued is our expertise,” said Ergen.

**WICT PARTICULARS:** **Oxygen** knocked Discovery out of the top programming spot in **WICT**’s annual PAR study (“Pay Equity, Advancement Opportunities and Resources for Work/Life Support”), receiving the title of Best Programmer for Women in Cable. Discovery held the title for 3 straight years (**Weather Channel** won in ‘03). For the 5th consecutive year, **Cox** ranked as the Best Operator for Women in Cable. **WICT**’s study shows advancement in pay equity and leadership programs for women but also illustrates challenges with recruiting and retaining women. When the study was launched in ‘03, women accounted for 38.7% of all cable employees. That number dropped to 35.8% in ‘07, with declines at both the operator and programming levels. The proportion of women managers has eroded, except at the middle management level, which increased to 37.9% from 34.1% in ‘04. When the study launched, 71.4% of companies surveyed didn’t have a formal pay equity policy. Now 60% have them. 38 companies participated in this year’s study, in line with the 40 featured last year. **Rankings:** Runner-up in the Best Operator category was **Comcast**, followed by **Time Warner Cable**, **Advance/Newhouse** and **Charter**. **Turner** was 2nd among programmers, followed by **Discovery**, **Weather Channel** and **Lifetime**. Visit [www.wict.org](http://www.wict.org) for further rankings.

**VOD:** **Cablevision** on Fri launched **AnswersTV**, a VOD lifestyle network that features original series on health and other topics. The net’s episodes are divided into 2-3 min chapters that are designed to be easy to navigate. The net’s also available on [www.answerstv.com](http://www.answerstv.com), and it says further cable VOD deals will be announced in the coming months.

**TW Chairmanship:** Seems incoming **Time Warner** CEO *Jeff Bewkes* will likely add the chmn title within a year, according to an **SEC** filing. He will receive a minimum annual salary of \$1.75mln/year under his 5-year employment agreement. That figure will increase to \$2mln if he’s elected chmn. If he isn’t made chmn by Jan 1, ‘09, he can resign and receive some compensation (but no severance). Bewkes also will receive an annual discretionary cash bonus with a target of \$8.5mln beginning next year. His long-term incentive compensation (options, etc) has a target value of \$8.5mln. Meanwhile, outgoing CEO *Dick Parsons*’ employment deal as chmn lasts 1 year. It will bring him a minimum salary of \$1.5mln, a bonus targeted at \$2.9mln and long-term incentives with a target of \$3.2mln. New CFO *John Martin*’s minimum annual salary is set at \$1mln.

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# BUSINESS & FINANCE

**In the States:** Cox pres Pat Esser on Mon urged state regulators to maintain appropriate circuit-switched interconnection protections and clear interconnection rights for VoIP. "The Bells market power remains vast and should not be underestimated," he said in prepared remarks to the **Natl Assoc of Regulatory Commissioners'** annual confab. He also called for a technology-neutral approach to voice regulations and USF reform.

**People:** Happy trails to **Rainbow** corp comm vp *Matt Frankel*, who was named chief communications officer for **The Weinstein Company**. -- **Nickelodeon/MTVN Kids and Family Group** expanded **Nicktoons** GM *Keith Dawkins'* duties to include the role of svp, programming partnerships, **Nickelodeon**. -- *Rick Holzman* has been named svp, programming and *Marc Etkind* vp, development, **Animal Planet** and **Discovery Kids**. - **TV Guide Network** promoted *Kristin Peace* to vp, development, acquisitions and broadband development

**Business/Finance:** Launching Tues is **XstreamHD**, which developed a transport network that delivers 1080p HD video and lossless audio channels directly to consumers' homes. The new firm strives to service movie studios and content/service providers. -- **Zacks Equity Research** tabbed **DirectTV** as its "Bull of the Day," citing the satcaster's churn reduction and quality sub base, and said it expects DirectTV to outperform the market.

## CableFAX Daily Stockwatch

Company	11/12 Close	1-Day Ch	Company	11/12 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
BRITISH SKY:	48.95	(1.27)	AMPHENOL:	40.41	(0.59)
DIRECTV:	25.01	(1.77)	APPLE:	153.76	(11.61)
DISNEY:	32.02	(0.72)	ARRIS GROUP:	9.75	(0.67)
ECHOSTAR:	40.83	(7.68)	AVID TECH:	26.89	1.25
GE:	38.25	(0.13)	BIGBAND:	5.91	0.00
HEARST-ARGYLE:	21.08	(0.13)	BLNDER TONGUE:	1.15	0.05
ION MEDIA:	1.38	0.07	BROADCOM:	29.71	(1.26)
NEWS CORP:	21.34	(0.79)	C-COR:	11.10	(0.51)
TRIBUNE:	27.91	0.71	CISCO:	29.11	0.53
<b>MSOS</b>					
CABLEVISION:	25.34	(0.94)	COMMSCOPE:	40.71	(0.64)
CHARTER:	1.16	0.02	CONCURRENT:	0.96	(0.06)
COMCAST:	18.94	(0.44)	CONVERGYS:	17.45	0.00
COMCAST SPCL:	18.73	(0.49)	CSG SYSTEMS:	18.81	(0.04)
GCI:	9.00	(0.01)	GEMSTAR TVG:	5.79	(0.83)
KNOLOGY:	13.74	(0.85)	GOOGLE:	632.07	(31.9)
LIBERTY CAPITAL:	116.78	(3.45)	HARMONIC:	10.88	(0.36)
LIBERTY GLOBAL:	34.91	(1.56)	JDSU:	13.09	0.04
LIBERTY INTERACTIVE:	19.95	0.16	LEVEL 3:	2.89	(0.02)
MEDIACOM:	4.75	(0.16)	MICROSOFT:	33.38	(0.35)
NTL:	28.22	0.00	MOTOROLA:	16.39	(0.09)
ROGERS COMM:	42.97	0.00	NDS:	57.00	0.97
SHAW COMM:	25.94	(1.32)	NORTEL:	18.37	0.51
TIME WARNER CABLE:	24.62	(0.63)	OPENTV:	1.11	0.00
WASH POST:	817.80	(5.7)	PHILIPS:	41.84	(0.57)
<b>PROGRAMMING</b>					
CBS:	26.94	0.20	RENTRAK:	14.86	0.19
CROWN:	6.93	(0.05)	SEACHANGE:	5.28	0.18
DISCOVERY:	23.48	(1.89)	SONY:	46.71	(0.29)
EW SCRIPPS:	43.44	0.05	SPRINT NEXTEL:	15.80	(0.51)
GRUPO TELEVISA:	22.04	(0.31)	THOMAS & BETTS:	51.21	(0.75)
INTERACTIVE CORP:	29.45	0.10	TIVO:	6.77	0.01
LODGENET:	19.00	(0.34)	TOLLGRADE:	8.56	0.25
NEW FRONTIER:	5.15	(0.39)	UNIVERSAL ELEC:	33.07	(0.43)
OUTDOOR:	7.31	(0.05)	VONAGE:	2.10	(0.16)
PLAYBOY:	10.22	(0.22)	VYYO:	4.75	(0.85)
TIME WARNER:	17.13	(0.11)	WEBB SYS:	0.07	0.00
UNIVISION:	36.23	0.00	YAHOO:	24.78	(1.01)
VALUEVISION:	4.68	0.14	<b>TELCOS</b>		
VIACOM:	39.57	(0.26)	AT&T:	38.65	(0.55)
WWE:	15.24	0.35	QWEST:	6.45	0.07
<b>TECHNOLOGY</b>					
3COM:	4.76	0.02	VERIZON:	42.80	0.03
ADC:	17.02	(0.32)	<b>MARKET INDICES</b>		
ADVANTAGE:	5.99	(0.33)	DOW:	12987.55	(55.19)
ALCATEL LUCENT:	8.03	(0.18)	NASDAQ:	2584.13	(43.81)
AMDOCS:	32.67	(0.34)			



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## M.C. Antil's CableFolks

### Lynn Yaeger's Tall Shadow

Lynn Yaeger has no idea I am writing this, nor will she be happy when she finds out.

Not that Lynn will take exception to the accuracy of anything that follows, mind you. The problem is that for a quintessential behind-the-scenes girl like her, there is something about being the subject of a profile that runs contrary to everything you've ever stood for.

And the only reason I know that is because Lynn taught it to me. As a former corporate PR guy, among the dozens of things she taught me—not to mention dozens of my contemporaries—is this one simple bromide: if anyone gets to be a star, it's the people you work with or for. Not you.

Yes, I used to be a public affairs person, a member of the first wave of PR pros brought in twenty years ago to help operators ward off the slings and arrows of increasingly hostile politicians and print reporters. And I will tell you, like so many of my wet-behind-the-ears colleagues, I learned as much about PR by watching and talking to Lynn Yaeger than I did anyone in this business.

And I'm not alone. When she came to cable in 1980, she brought with her a rare combination of brains and toughness. Until Lynn Yaeger, cable PR was warm and fuzzy. It was well-intentioned but also incredibly naïve. And, ultimately, cable PR was far too inside-out in its thinking: more concerned with what we wanted to say than what our key audiences actually needed to hear. In that regard, Lynn was, in no small way, one of the most important people in cable history.

She taught operators something vital about corporate communications and public affairs. With her background on Capitol Hill, she made them see that PR is a unique blend of art and science; a discipline that trades as much on who you knew, as what you knew; a key business component that relies desperately at times on an



**M.C. Antil**

iron first and at other times on a velvet glove.

Fifteen or so years ago, I interviewed with Lynn when she was heading up PR at Warner Cable in Columbus. She wanted to hire me but ultimately didn't.

I remember she called me later and told me she thought I liked PR but didn't love it. She said she really wanted to work with me, but that she felt I wanted to do something else with

my life, and that I was restless. Lynn told me if she hired me, her sense was she'd be looking for my replacement in two years.

And you know what? She was right.

Back then, Lynn loved to talk about tossing it all aside, moving to a beach and opening a hot dog stand. As she spoke, you could almost see her visualizing herself, tanned, trim and content; a smile on her face and her two dogs by her side.

But Lynn's married now. And she and her relatively new husband, Bob, have a lot of catching up to do.

Some who know her well tell me she's desperate to stop and smell the roses; to spend more time with Bob and her friends and, finally, after all these years, to kick back and relax. That's why she recently announced she'll be leaving Time Warner in a few weeks and will stop by only now and then to consult.

Lynn, thank you for all you've meant to me and my career.

Thank you for the late night joke-telling sessions and for your remarkable leadership.

But most of all, thank you for caring enough to look deep within a young PR guy years ago and for telling him exactly what you saw.

And when we do next meet, remember; I like my hot dogs with mustard, onions and just a little relish.

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