

CableFAX Daily™

Wednesday — November 26, 2008

What the Industry Reads First

Volume 19 / No. 230

Unbundling Doings: Cablevision Makes Proposal Regarding Program Contracts

No one knows what will be on the FCC's Dec 18 open meeting agenda except FCC chmn *Kevin Martin* (and even he's had to pull an item or 2 before), but there is scuttle around DC that he would like to include an item on program unbundling/retrans. Even if it doesn't make the program, there's plenty of chatter over what appears to be an unbundling proposal from **Cablevision**. Cablevision vp, legal and regulatory affairs *Michael Olsen* filed with the FCC a copy of an email that was sent to FCC Media Bureau chief *Monica Desai* and Martin's media issues adviser *Michelle Carey* on Sat. The email, bearing the subject line "Language," appears to be some proposed language from Cablevision that would prevent programmers from requiring that their channels reach a certain number of subs, among other things. Asked about the filing, Cablevision issued this statement: "It has been the longstanding view of *Charles Dolan* and Cablevision that programmers should not be able to withhold their programming from cable, satellite and telco distributors unless it is carried in a designated tier. We believe that programming should be sold on a per-viewing-subscriber basis, and not be required to be distributed to all customers as a condition of carriage." In other words, CVC is saying it doesn't think programmers should be able to require that their channel be carried on a particular tier of service, such as expanded basic. The text of the email sent to the FCC: "No cable programming vendor or broadcast station electing retransmission consent for carriage on a cable system shall enforce or execute any provision in a contract with an MVPD that directly or indirectly—(a)sets as a condition of carriage the number of viewing subscribers (whether such number is stated as a total number of viewing subscribers or a percentage of an MVPD's video subscribers), (b)prescribes the service tier, package or level where such programming or station must be carried (c)sets a single rate other than a rate per viewing subscriber (regardless of the tier, package, volume or level of carriage), or (d) otherwise restricts, is intended to restrict, or has the effect of restricting, the MVPD's packaging or pricing of such programming or stations. All such restrictions in existing contracts are null and void." According to another FCC filing, Cablevision's *Chuck and Jim Dolan* and COO *Tom Rutledge*, as well as **Media-com** CEO *Rocco Commisso*, met Fri with Martin and commissioners *Robert McDowell*, *Jonathan Adelstein* and *Michael Capps*. They discussed issues presented by the retrans consent scheme, the benefits of establishing a retrans quiet period and the terrestrial exemption to the program access rules, according to the filing. **Verizon** has complained about CVC refusing to sell it the HD feed of its terrestrially delivered **MSG** regional sports net; while Cablevision has argued the terrestrial exemption needs to stay in place. **Mediacom** did not comment beyond the filing.

End of the Line: **Discovery** and the **Koppel Group** said they amicably agreed to dissolve their 3-year contract 6 months before it was due to conclude at the end of May '09. **Discovery Channel** continues to focus on long-running series and specials and emphasizes non-news content that has a longer shelf life. **Koppel Group** has produced 15 hours of programming, including 7 original docs since *Ted Koppel* joined in Jan '06. "There has been significant change in senior manage-



punkin chunkin

CATCH THANKSGIVING'S
NEW SMASH HIT-IN HD

THURSDAY NOVEMBER 27 • 9 PM^E

sciencechannel.com/punkinchunkin
Call your Discovery Communications representative for more information about Science Channel HD

© 2008 Discovery Communications

Sc^{HD}
science channel

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, 240/753-5696, dvodenos@accessintel.com ● Advertising Mgr: Erica Gottlieb, 212/621-4612 ● Marketer: Doreen Price, 512/934-7857, dprice@accessintel.com ● Marketing Director: Carol Bray, 301/354-1763, cbray@accessintel.com ● Prod: Joann Fato, 301/354-1681, cdaily@accessintel.com ● Diane Schwartz/VP and Group Publisher ● Paul Maxwell/Columnist ● Subs/Client Services: 301/354-2101, fax 301/309-3847 ● Group Subs : Angela Gardner, 757/531-1369, cfaxgroupsub@accessintel.com

ment at Discovery. Producing our kind of news-related programs is an expensive proposition. It has long been clear that neither of us is interested in an extension of the current contract," Koppel said. "We leave with gratitude for the professional opportunities we've been given and for the generosity with which we've been treated."

DTV Doings: NAB chief *David Rehr* asked the **NTIA** to expedite the delivery of converter box coupons to consumers. He notes that contractor **IBM** is mailing coupons by 3rd class mail. "With the Feb transition date now less than 85 days away, it is critical that the government focus on getting coupons to consumers who have applied as quickly as possible," he said in a letter sent Tues. -- **ION, NBCU** and the **Assoc of Public TV Stations** announced that they'd be leading a 2nd wave of soft analog shut-off tests. They are to take place in early Dec in L.A., DC, Hartford and Dallas. NYC will hold a 2nd shutoff test, following its Oct analog shut-off.

In the Courts: Chicago can't collect a 5% franchise fee on cable modem service, the IL Supreme Court ruled last week. That jives with the **FCC's '02** ruling, which was upheld by the US Supreme Court. But in May '07, an IL appellate court refused **Comcast's** request to dismiss the city's case and remanded it for further proceedings, saying that there was no clear showing of pre-emption preventing the city from collecting a franchise fee on modem service (**Cfax**, 5/24/07). The IL Supreme Court said the lower court was wrong, noting that all of the federal district courts cited in the appeal have found that Section 542 of the Communications Act pre-empts franchise fees on cable modem service.

At the Portals: **ION** and **BET** founder *Bob Johnson* are forming **Urban Television**, and asking the **FCC** to grant the jv share-time licenses that would allow the channel to broadcast on a digital channel of **ION** in 42 markets, *TV Newsday* reports. Urban would be entitled to must-carry in all markets, Johnson and **ION** contend. -- The administrative law judge hearing several cable program access complaints is set to retire Jan 3. Judge *Arthur Steinberg* is retiring after 42 years of service, according to an order issued Mon. Chief ALJ *Richard Sippel* was immediately designated presiding judge in the case, which involves **Comcast, Cox, Bright House, Time Warner Cable, MASN, NFL Net** and **Wealth TV**. Steinberg will make himself available to handle discovery/procedural questions as needed. A status conference was scheduled for Tues afternoon. -- Rural cable and telco providers are asking the **FCC** to deny **News Corp's** request for relief from conditions established by the '04 News Corp-**Hughes** order. A letter, signed by **ACA, the Natl Telecom Cooperative Assoc** and the **Organizations for the Promotion and Advancement of Small Telecommunications Companies**, claims that the conditions haven't harmed News and have served in the public interest.

Competition: **DISH Network** launched **Pasiones**, a 24-hour Spanish channel devoted to the telenovela genre. It's available on DishLATINO and DishMEXICO. -- **EchoStar** and Mexico media conglomerate **Comunicaciones** have formed **Dish Mexico**, which includes 25 Spanish and English-language channels for 139 pesos per month (about \$10.50 US).

Over-the-Airheads: After broadcasters lost many of the Bowl Championship Series college football games to **ESPN**, **NAB's** board has adopted a resolution "to support the rights of all Americans to have free access to telecasts of major sporting events, particularly those of publicly funded educational institutions." It directed **NAB** staff "to work with policymakers to educate them on the importance of ensuring that no segments of society are disenfranchised from this highly valued programming." Last week, **ESPN** reportedly paid \$125mln for annual rights vs the \$80mln **Fox** had reportedly been paying.

LOOK-A-LIKE
BE A STAR
OR AT LEAST
LOOK LIKE ONE!

WEDNESDAYS 8/7c

**TV
GUIDE
NETWORK**

BUSINESS & FINANCE

Ratings: ESPN was the prime winner last week with MNF (2.1 HH rating/2.1mln HHs), but **USA** wasn't far behind (2.0/2mln). The general entertainment net was propelled by several eps of "NCIS" that scored a 3.0 or higher. **Disney** (1.8/1.77mln) and **Fox News** (1.8/1.68mln) tied for 3rd, followed by **TNT** (1.5/1.47mln) and **Hallmark** (1.4/1.15mln). **Brag**

Book: ESPN's MNF coverage of the Browns-Bills scored an 8.8/8.58mln, followed by **NFL Net's** Bengals-Steelers telecast (5.6/2.33mln). --

Comedy Central's "Colbert Christmas" special drew 2.3mln total viewers and was tops among men 18-24 on basic cable Sun night, with a 2.4 rating. -- **Hallmark's** "Old-Fashioned Thanksgiving" racked up an impressive 3.2 HH rating/2.75mln HHs.

Editor's Note: Your next issue of **CableFAX** will be dated Dec 1 and arrive Wed evening. Have a wonderful Thanksgiving! With no **Cfax** issue Fri, the regular weekly cable programming reviews will appear this week at **Seth Arenstein's** blog (<http://www.cable360.net/blog/>).

Business/Finance: Liberty Media will unwind 50% of the first tranche of a **DirectTV** equity collar it entered into in Apr. As a result of the partial unwind, this tranche now has 11.25mln DirectTV shares underlying it. Liberty had a net cash outflow of \$1.8mln as a result of the partial collar unwind and a loan repayment associated with the equity collar arrangement.

CableFAX Daily Stockwatch

Company	11/25 Close	1-Day Ch	Company	11/25 Close	1-Day Ch	
BROADCASTERS/DBS/MMDS						
BRITISH SKY:	25.00	0.00	3COM:	1.79	0.00	
DIRECTV:	21.43	(0.51)	ADC:	6.60	0.12	
DISNEY:	22.03	(0.17)	ADVANTAGE:	1.28	(0.02)	
ECHOSTAR:	10.33	0.53	ALCATEL LUCENT:	2.20	0.14	
GE:	15.77	0.51	AMDOCS:	18.09	(1.03)	
HEARST-ARGYLE:	7.75	0.17	AMPHENOL:	22.22	0.84	
ION MEDIA:	1.44	0.00	APPLE:	90.80	(2.15)	
NEWS CORP:	7.20	0.12	ARRIS GROUP:	6.55	0.14	
MSOS						
CABLEVISION:	13.55	(0.11)	AVID TECH:	12.25	0.11	
CHARTER:	0.19	(0.02)	BIGBAND:	3.40	0.06	
COMCAST:	15.70	0.42	BLNDER TONGUE:	0.90	0.10	
COMCAST SPCL:	15.16	0.62	BROADCOM:	15.12	(0.28)	
GCI:	6.87	0.33	C-COR:	11.00	0.00	
KNOLOGY:	5.42	0.11	CISCO:	15.42	(0.98)	
LIBERTY CAPITAL:	3.32	0.05	COMMSCOPE:	10.53	1.00	
LIBERTY ENT:	10.99	0.23	CONCURRENT:	3.12	0.00	
LIBERTY GLOBAL:	12.99	0.36	CONVERGYS:	4.69	0.03	
LIBERTY INT:	2.16	(0.35)	CSG SYSTEMS:	14.99	(0.37)	
MEDIACOM:	2.56	0.09	ECHOSTAR HOLDING:	15.57	0.85	
ROGERS COMM:	42.97	0.00	GOOGLE:	282.05	24.61	
SHAW COMM:	17.16	0.45	HARMONIC:	4.79	0.01	
TELEWEST:	24.20	0.00	JDSU:	2.47	(0.06)	
TIME WARNER CABLE:	18.75	(0.01)	LEVEL 3:	0.85	(0.01)	
VIRGIN MEDIA:	4.07	0.07	MICROSOFT:	19.99	(0.7)	
WASH POST:	376.06	28.06	MOTOROLA:	3.99	0.44	
PROGRAMMING						
CBS:	5.92	(0.07)	NDS:	47.75	(0.16)	
CROWN:	2.06	0.16	NORTEL:	0.37	(0.06)	
DISCOVERY:	13.26	(0.37)	OPENTV:	1.14	0.05	
EW SCRIPPS:	2.89	(0.14)	PHILIPS:	17.33	(0.25)	
GRUPO TELEVISIA:	14.96	0.11	RENTRAK:	9.90	0.14	
HSN:	4.29	(0.08)	SEACHANGE:	6.57	(0.43)	
INTERACTIVE CORP:	15.01	0.00	SONY:	20.05	(0.89)	
LIBERTY:	25.54	(0.04)	SPRINT NEXTEL:	2.33	0.13	
LODGENET:	0.52	(0.04)	THOMAS & BETTS:	19.41	0.36	
NEW FRONTIER:	1.33	(0.06)	TIVO:	4.43	(0.22)	
OUTDOOR:	4.82	(0.11)	TOLLGRADE:	4.51	(0.42)	
PLAYBOY:	1.18	(0.06)	UNIVERSAL ELEC:	15.09	0.25	
RHI:	4.19	(0.81)	VONAGE:	1.03	0.11	
SCRIPPS INT:	25.74	0.35	YAHOO:	10.07	(0.14)	
TIME WARNER:	8.35	0.69	TELCOS			
UNIVISION:	36.23	0.00	AT&T:	27.29	0.35	
VALUEVISION:	0.50	0.07	QWEST:	2.77	0.20	
VIACOM:	15.45	(0.33)	VERIZON:	30.58	0.85	
WWE:	10.69	0.44	MARKET INDICES			
TECHNOLOGY						
				DOW:	8479.47	36.08
				NASDAQ:	1464.73	(7.29)



CABLE360.NET
CableJobs
 The place for talent

We've got the next cable job — or the candidate — for you!

Choose the Cable360.net job board today!

Employers save 20% on your next job posting or package — Enter JOBS08.

Think about that for a minute...

Stuff...ing

Celebrating Thanksgiving has always seemed a little strange to me. One day a year? There's lots of reason, even in this crazy time we're in, to be giving thanks a lot more often than that! But just as "news" is not defined as what's going on that's right, but rather what's out of the ordinary, so too columnists are expected to focus more on the unusual stuff, the dangerous stuff, the bad stuff.

The good stuff you can handle all by yourself. You don't need me to point it out to you, or do you?



Steve Effros

Well, given that there's just so much "stuff" going on right now, and we can already see that it will be overflowing in the coming months, I decided to just give you a preview today of some of the things I see out there that will take up time and column inches in this space in the near future.

It's really hard these days to figure out what to focus on since I only get to talk to you twice a month, and the "stuff" is coming at us much faster than that! Here, then, is a quick look at where our conversation (I invite your emails!) is likely to go;

- The recession is going to be longer and harder than any we have experienced in many years, but cable is in an ideal position to weather it better than most. We, as I've noted before, offer the best value, the best bang for the buck, of any entertainment or information choice. I've often urged us to focus on this point, and especially to compare our value with others. You can expect lots of "comparison pricing" in the coming months.
- By the way, it's not just our video delivery service, including video on demand and DVR service that provides a real value for our customers. The broadband data and voice services are also something we should not only be proud of, but tout! You can expect a lot of talk next year

about the government having to get involved in "broadband policy" to assure that the US is keeping up in the "broadband race." I've long thought that was a poorly thought out shibboleth, misusing International comparisons, and we're going to walk through those numbers some more to show why.

A recent academic conference on America's place in broadband development underlines the point; one of the "consumer activist" leaders complained that we were "behind" by pointing out that "only" 50 to 55% of Americans now subscribe to broadband, but 80 to 90% subscribe to cable and cellphones! Well, think about that, as my column is entitled... Is it such a surprise that folks know how to watch television or talk on a phone but might not even have a computer in their home?

Doesn't that say we should be focusing on education, not government subsidies, to build redundant competitive infrastructure?

Lots more on that to come!

- Finally, a real shocker, and a great jumping-off point to explore the policy issues around "big/bad" and "open/closed." Steve Wildstrom in his *BusinessWeek* tech column a few weeks ago (he's a big "open" technology fan) suddenly noted that Apple and Blackberry (both "closed" technologies for smartphones) seem to work a whole lot better than the "open" ones! Wow! Gee! Maybe there really is a reasonable argument for end-to-end control of technology rather than that it's (simplistically) only being proposed by rapacious "big" corporations!... at least sometimes.

So there you have it. Lots to explore, and be thankful for.

Steve

T:703-631-2099
steve@effros.com

CableFAX's Best of the Web Awards

is the industry's top honor in digital space, recognizing outstanding Web sites and digital initiatives among cable programmers (networks and independents), operators, vendors and associations.

To View Categories and Enter: Go to CableFAX.com/cfp/BOW

Awards Timeline

Entry Deadline: December 3, 2008
Late Entry Deadline: December 10, 2008
Award Event: February 26, 2009

Sponsorship/Advertising Information Contact:
Debbie Vodenos at 301-354-1695 or dvodenos@accessintel.com.





You're Invited to The CableFAX Magazine Event
Secure your spot today – RSVP at CableFAX.com

Join us for the CableFAX Magazine Event on December 2, 2008 as we salute the cable leaders, pioneers, influencers, out of the box thinkers and rainmakers. This must-attend industry event showcases the who's who of the cable business and will honor the CableFAX 100, The Regional Top Players, The Top Women, Rising Stars, the "Above It All" Inductees and the 2008 CableFAX Magazine Awards. The luncheon will be filled with excitement from the award winners, great food and entertainment; all while you mingle with top cable executives.

CableFAX Magazine Awards

Community Service Award
Rosa Gatti, ESPN

Diversity Award
Comcast Cable

Gatekeeper of the Year Award
Melinda Witmer, Time Warner Cable

Re-Branding of the Year Award
USA Networks

Re-Invention of the Year Award
Discovery Communications

Event Details

Tuesday, December 2nd, Noon - 2 p.m.
National Press Club, Washington, DC

RSVP by December 1, 2008 at CableFAX.com

Sponsored by



CableFAX Daily_{TM}
"What the Industry Reads First"

CableFAX
THE MAGAZINE

CableFAX
CONTENT BUSINESS