

# CableFAX Daily™

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What the Industry Reads First

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## 'Tis the Season: EchoStar, Mediacom Fighting Fri Retrans Deadlines

There are some things you can count on around this time every year. Turkey leftovers, Santa at the mall... and retrans fights. The latest flare up has **Pappas Telecasting** threatening to pull all of its broadcast signals from **EchoStar** on Fri (the same day it has to shutdown all distant network signals) because the 2 have been unable to work out a retrans deal (see story below). Fri is also D-Day for **Sinclair** and **Mediacom's** public retrans spat. On Wed, Mediacom held a conference call to tell its side of the story to city officials and reporters (moments before it began, Sinclair issued a news release headlined, "Sinclair Negotiations With Mediacom Unlikely to Result in an Agreement"). Mediacom hopes the FCC will grant an emergency request to keep the stations on the air. Mediacom chief *Rocco Commisso* said the MSO upped its offer to Sinclair by 33% over the past week and also agreed to increase its payment by up to 20% if Sinclair inks a deal in the next 2 years exceeding the one it reaches with Mediacom. The MSO also offered Sinclair an a la carte deal in which subs would pay for the broadcast stations if they wanted them. Sinclair rejected the offers, as well as a proposal for binding arbitration, Commisso added. If Mediacom does lose the Sinclair signals at 12:01 Fri, it will impact about 700K subs (50% of its basic subs). Some of the markets will be able to receive the affiliate networks from other stations, execs said. If the stations go dark, Mediacom says it will offer alternative cable content; it's also working with other broadcasters to provide news feeds and programming for those stations. The MSO also has antennas on hand for customers who are able to receive the stations over the air. "Never in 10 years" has Mediacom had a station go dark, Commisso said.

**DISH's Battle:** Pappas chmn/CEO *Harry Pappas* says DISH is "unwilling to pay even a modest price—less than 19 cents out of the \$6 per month they charge their customers—to the local stations that must spend millions of dollars to buy or to produce—this programming." **EchoStar** claims Pappas is demanding unreasonable terms and conditions. "We are doing everything we can at the moment to reach a fair agreement and keep these channels on air for our customers," the company said. Nearly 2mln DISH subs will be affected, according to Pappas. Most of the impacted stations are **CW** or **Azteca America** affiliates, but DISH also stands to lose a smattering of **CBS**, **Fox** and **ABC** affils in some markets, including Sioux City and Omaha. The stations and markets affected are: KAZA/L.A (Azteca America affil.); KTNC/San Francisco-Oakland-San Jose (Azteca); KAZH/Houston (Azteca); WCWG/Greensboro-High Point-Winston Salem (CW); KMPH (Fox) and KFRE/Fresno-Visalia CA (CW); KCWI/Des Moines-Ames, IA (CW); KPTM (Fox) and KXVO/Omaha (CW); KDBC/EI Paso (CBS); KHGI (ABC) and KTVG (Fox)/Lincoln & Hastings-Kearney, NE; KREN/Reno, NV (CW); and KPTH (FOX) and KMEG/Sioux City, IA (CBS).

**Plugged Up:** The uncertainty and bickering over the **FCC's** set-top integration ban appears to have claimed another victim. The **CEA** and **NCTA** have not met since Sept 29 to discuss 2-way plug & play, according to a joint status report filed at the FCC Wed. "The parties are currently reviewing opportunities to renew their discussions," the filing



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said. NCTA offered no comment, and CEA couldn't be reached by deadline. It would appear that the integration ban, which NCTA is fighting to have deferred and CEA wants kept in place, has overtaken 2-way talks for now. The FCC requires that NCTA and CEA provide a joint status update every 60 days. Earlier this month, CEA submitted its own 2-way plug & play proposal at the FCC (**Cfax**, 11/9). NCTA, which has filed its own proposal at the FCC last year, said that plan should stem from inter-industry discussions rather than the FCC.

**About Face:** After declaring that it would not carry NFL Net's Thurs-Sat package, **Insight** shifted gears, working late Tues to hammer out an agreement. The deal, announced just minutes before midnight Tues, comes less than a week after Insight subs were shut out of NFL Net's Thanksgiving match-up because the MSO balked at the games' surcharge. "We know that many of our customers are very passionate about NFL football, so we have been trying for months to get to a deal that makes sense for everyone—customers, NFL Network and for us. It simply took this long to reach an acceptable solution," an Insight spokeswoman said (**Cfax**, 9/8). Now eyes are on a trio of overbuilders—**RCN**, **WOW** and **Knology**—who are in a similar boat. The 3 carry the net but have refused to pay for the 8-game package. RCN said it's not now negotiating with NFL, adding it would like to carry the games but not at the price on the table. Knology and WOW could not be reached by deadline.

**TiVo Earnings:** **TiVo** reported 3Q technology and service rev of \$52.6m (+22%), and a net loss of \$11.1m, compared to a net loss last year of \$14.2m. Overall, TiVo-owned subs grew 24% to 1.6m, while a net decline in the number of DirecTV subs occurred as DirecTV deployed fewer TiVo set tops.

**Competition:** **Verizon Wireless** has viral video fever, announcing that **revver.com** will provide user-generated video content directly to the mobile phones of VZ's "V Cast" subs. The pact comes a day after VZ said it forged a similar content-sharing deal with **YouTube**. -- **TMG** and the **National Shooting Sports Foundation** announced an iTV campaign to run on **Men's Outdoors & Recreation**. Available to more than 12m **DISH** subs who have iTV-enabled set tops, the campaign lets viewers of "Wingshooting USA" locate by remote control bird-hunting preserves and enter a contest to win an ATV and other prizes.

**Carriage:** **NCTC** and **Fox News** reached a multi-year carriage agreement for more than 3m of the coop's member subs. Those covered by a different pact may opt into the deal upon expiration; those who don't currently carry the news net may also opt in. Fees weren't disclosed, so it's unclear whether Fox News will receive from NCTC the \$1 sub fee it has publicly sought in recent months. The net's recent carriage pact with **Cablevision** (**Cfax**, 10/17) reportedly generated a 75-cent/sub fee. -- **Comcast** on Thurs will launch **ReelzChannel** on its MN systems.

**Online:** Digital content delivery platform **BitTorrent** struck several deals with partners including **MTVN**, **Starz Media** and **Lionsgate**. Now available for download at bittorrent.com are series such as **Comedy Central's** "Chappelle's Show" and **VH1's** "Hogan Knows Best."

**Ratings:** 4 "MNF" telecasts—the top 4 overall Nov programs—helped coronate **ESPN** (2.6 HH rating/2.39m HH delivery) as the ratings champion for the month. **Disney** (2.2/1.95m) laughed all the way to 2nd position with the help of "SpongeBob SquarePants," and **USA** (2.0/1.88m) notched 3rd without a top-15 telecast. **TNT** (1.7/1.55m) was 4th, followed by **TBS** (1.3/1.22m), which usurped **Cartoon's** Oct slot. -- **Brag Book:** NFL Net's Nov 23 live game kick off



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# BUSINESS & FINANCE

earned a 6.8/2.56mln, making it the 5th ranked program of Nov. -- **Court TV** achieved its most watched month in history, delivering 454K (+34%) adults 18-49 in prime and a nightly avg of 1.12mln (+28%) total viewers. -- With a record 1.2mln total monthly viewers, **The History Channel** completed its most watched Nov ever. -- **Hallmark Channel's** Nov 25 US premiere of "March of the Penguins" earned a 4.1, making it the highest rated telecast in net history.

**In the States:** **Versus** has partnered with **THN** to make its content available to more than 315K US hotel rooms.

**People:** **Midcontinent Comm** pres/CEO **Mark Niblick** will retire Mar 1, turning over the reins to COO **Pat McAdaragh**. Niblick will continue to serve Midcontinent's vice chmn. -- **Turner Network Sales** promoted **Julie Dunn** to vp, sales and marketing.

**Business/Finance:** **Liberty Global's** board has authorized Dutch auction cash self-tender offers to purchase up to 5.08mln shares of its Series A common stock and up to 5.25mln shares of its Series C common stock, at price ranges of \$26.08 to \$29.50 per Series A share and \$25.27 to \$28.59 per Series C share. Each of the offers is expected to commence on or about Dec 4 and will remain open for a minimum of 20 business days. -- **Standard & Poor's** assigned a 'BBB-' rating to **Cox Comm's** \$600mln senior unsecured notes due '16 and \$400mln senior unsecured notes due '36.

## CableFAX Daily Stockwatch

Company	11/29 Close	1-Day Ch	Company	11/29 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
AVID TECH:	38.20	0.79	BLNDER TONGUE:	1.82	0.16
BRITISH SKY:	41.67	0.54	BROADCOM:	32.88	(0.65)
DIRECTV:	22.81	0.26	C-COR:	10.03	0.27
DISNEY:	32.88	(0.01)	CISCO:	27.08	0.05
ECHOSTAR:	36.08	0.39	COMMSCOPE:	30.70	(0.26)
GE:	35.35	0.15	CONCURRENT:	1.87	(0.01)
HEARST-ARGYLE:	25.45	0.21	CONVERGYS:	23.88	0.18
ION MEDIA:	0.68	0.00	CSG SYSTEMS:	27.86	0.33
NEWS CORP:	21.36	0.11	GEMSTAR TVG:	3.13	0.00
TRIBUNE:	32.03	(0.07)	GOOGLE:	484.65	(4.85)
<b>MSOS</b>					
CABLEVISION:	27.87	0.02	HARMONIC:	8.11	0.32
CHARTER:	3.06	0.11	JDSU:	18.10	(0.29)
COMCAST:	40.27	0.36	LEVEL 3:	5.05	(0.08)
COMCAST SPCL:	40.07	0.35	LUCENT:	2.57	0.01
GCI:	14.87	0.25	MICROSOFT:	29.57	0.18
KNOLOGY:	10.05	0.01	MOTOROLA:	21.95	0.23
LIBERTY CAPITAL:	88.08	0.09	NDS:	46.98	0.18
LIBERTY GLOBAL:	27.36	0.75	NORTEL:	2.15	(0.01)
LIBERTY INTERACTIVE:	22.82	0.55	OPENTV:	2.47	0.02
MEDIACOM:	8.14	0.05	PHILIPS:	37.26	(0.12)
NTL:	24.15	0.34	RENTRAK:	14.73	(0.26)
ROGERS COMM:	61.26	(0.28)	SEACHANGE:	8.63	0.46
SHAW COMM:	31.14	(0.53)	SONY:	39.51	0.21
TIME WARNER:	20.33	0.15	SPRINT NEXTEL:	19.67	0.12
WASH POST:	730.00	4.49	THOMAS & BETTS:	51.98	0.44
<b>PROGRAMMING</b>					
CBS:	30.03	(0.02)	TIVO:	6.29	0.01
CROWN:	3.16	0.05	TOLLGRADE:	8.57	0.16
DISCOVERY:	15.15	0.06	UNIVERSAL ELEC:	21.07	0.29
EW SCRIPPS:	48.91	0.65	VONAGE:	6.64	0.11
GRUPO TELEVISA:	25.37	0.32	VYYO:	3.96	0.03
INTERACTIVE CORP:	36.02	0.98	WEBB SYS:	0.06	0.02
LODGENET:	23.73	0.72	WORLDGATE:	1.28	(0.01)
NEW FRONTIER:	9.07	0.04	YAHOO:	27.04	0.04
OUTDOOR:	12.92	0.13	<b>TELCOS</b>		
PLAYBOY:	11.46	0.00	AT&T:	33.50	0.68
UNIVISION:	35.54	0.07	BELLSOUTH:	43.66	0.79
VALUEVISION:	13.30	0.27	QWEST:	7.83	0.23
VIACOM:	37.73	0.03	VERIZON:	34.89	0.49
WWE:	15.98	0.05	<b>MARKET INDICES</b>		
<b>TECHNOLOGY</b>					
3COM:	4.02	(0.47)	DOW:	12226.73	90.28
ADC:	13.61	0.04	NASDAQ:	2432.23	19.62
ADDVANTAGE:	4.00	0.15			
AMDOCS:	38.02	(0.15)			
AMPHENOL:	68.35	1.44			
ARRIS GROUP:	11.82	(0.07)			



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# Think about that for a minute...

## Media Madness

When someone is no longer able to characterize who or what they are, they are sometimes considered “mad.” While that term, and it’s synonym “insanity,” are no longer used, they fit very well in the current situation where no one is quite sure what the “media” is any more. And it’s looking more and more insane to try to impose regulations on something we can’t even define.

The most popular parlor game among media analysts and policy wonks these days is to debate whether Google has turned into a media giant. As a NY Times piece recently noted:



Steve Effros

“Is Google a friend of foe?—let’s ponder another oft-raised and pertinent query: Is Google a media company? The last time I checked, a media company was generally defined as a business that accumulates audiences and sells access to them to market-

ers... And if it is a media company, it is the world’s biggest, with a market capitalization of \$144 billion.”

Now Google denies that it’s a media company. Its definition includes the idea that the company must create its own content. But then are cable systems that do not own programming not to be considered “media” companies? If a program network buys all its programs from independent producers, would it qualify as “media?”

What about asking the question a different way; if a media company that does create its own programming then distributes it in different ways, does the method of distribution determine what type of company it is? Let’s take ABC for example. It buys some product, produces other product, distributes via it’s own television outlets and pays others, affiliates, to distribute the programming. It now also sells the programming for viewing via iPods and the like, and offers some of the programming for “free” on the internet. What type of company is it?

More important, from the perspective of this column, how should it be regulated, if at all? When ABC starts distributing its programs via a broadband connection for a fee, doesn’t that sound like the definition of a cable company? So has ABC become a “cable company” for purposes of regulation because it is now selling product directly to consumers over wires?

My answer, philosophically of course, is no. But I raise the issue because the lines are blurring so much that it has become impossible to make sensible distinctions. When Fox starts selling its program “The OC” first-run on the internet for a fee, why isn’t that “pay TV”? And if it is, do all the regulations defining cable systems, or media ownership rules, or all the other stuff that has gotten into the rule books over the years apply?

If a company comes along and creates a box that picks up a signal from a broadband modem connection and turns it into a paid delivery of a television program or movie on a television screen, what is that company? If it sells advertising to support the delivery rather than charge a fee directly, does that make a difference?

No wonder we are suffering from media madness. We can no longer adequately define ourselves.

What’s worse, the government has defined some things, but not others, regulated some, and has no idea what to do about or even whether they can regulate others.

Are we getting to the point with all “media” regulation that we have already witnessed with obscenity jurisprudence... “I know it when I see it?” Insanity.

It’s time to abandon the labels and the regulations and allow media evolution to take place on it’s own.

Steve

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