

CableFAX Daily™

Wednesday — November 30, 2011

What the Industry Reads First

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Carried Away: Industry Tries to Sway FCC on Program Carriage Proposals

There was plenty of hand-wringing in comments to the **FCC** on its proposed changes to program carriage rules. **MSG** and **Music Choice**—both nets affiliated with MVPDs—complained that the “misguided proposals” would “severely distort” the marketplace and award unwarranted advantages to unaffiliated programmers. One of their complaints involves the FCC’s proposal to make MVPDs subject to liability for programming which they aren’t affiliated with, but carries an affiliation with another MVPD. They argue it would attach a liability risk to all programming affiliated with any MVPD. But independent programmer **HDNet** sees it differently. “Even MVPDs that own no programming interests can discriminate in favor of programming on behalf of a third party,” the net said in its comments filed by Mon’s end-of-day deadline. “The common practice of wholesale tying or bundling, and agreement by MVPDs to accept it, is a form of discrimination on the basis of affiliation of programming networks.” Such a practice can injure independents in order to accommodate carriage of multiple bundled nets and should be prohibited, HDNet said. **ACA** is concerned that the FCC’s proposed rulemaking asks whether the program carriage rules should be expanded to include all cable operators, not just the vertically integrated ops. Stressing that small operators have a history of supporting independent programmers, ACA argued that there is no basis for applying the rules to non-vertically integrated cable ops and said it would “reverse nearly 20 years of settled law.” Declaring that only a handful of program carriage complaints have ever been filed (and none have resulted in a finding that rules were violated), **NCTA** is wondering just why the FCC is stepping into this. “[The Commission] has accepted at face value the contention of some programming vendors ‘that the lack of complaints is a direct result of our inadequate procedures, not a lack of program carriage claims,’” the trade group wrote. It’s a fan of one of the proposed rule changes—eliminating a loophole in the statute of limitations for filing program carriage complaints, which could be read so that a programmer could file a complaint years after an alleged violation occurred. NCTA said the FCC’s proposal to expand discovery rights of programmers would result in “fishing expeditions” for useful competitive info, and it scoffed at the notion of authorizing damages, arguing that it could give some programmers’ undue leverage. Like fellow indie net HDNet, **Bloomberg** is pleased with the FCC proposals. It called the lack of a successful complaint “strong evidence” that the process is broken. Bloomberg particularly likes the idea of baseball-style arbitration, saying it should accelerate case processing time and encourage settlement. It’s

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Enter as many categories as you like, but please tailor your entry to the category you are entering.

Campaign Categories:

- General and Campaign Categories
 Ad/Series of Ads
 App (for Smartphone)
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 Authenticated Content Marketing Campaign
 Blog or Series of Blogs
 Community/Social Networking
 Contest/Online Games
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 Digital Marketing Campaign
 Digital PR Campaign
 Editorial Excellence

- Email Marketing Campaign
 Online Newsroom
 Online Store/Merchandizing
 Original Content
 Podcast or Videocast
 Social Media Campaign
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 Use of Facebook
 Use of Twitter
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 Use of Video/Moving Image
 Virtual Tradeshow or Online Event
 Web Site Design
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People Awards

- Blogger / Tweeter / Social Networking Facilitator
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 Video Editor/Producer
 Web Content Director
 Other (please enter an executive who is successfully leading your organization's digital initiatives)

- Cable Operator
 Official Show Website
 Regional/Local Programmers
 Technology and other Vendors
 Web Show

TV Everywhere Awards

- Best Content Marketing/PR
 Best App
 Best Portal Site (Operator)
 Best Portal Site (Programmer)
 Best TV Everywhere Technology (Vendor)

Best Overall Websites

- Cable Network - Small and Mid-Size (Fewer than 50mln subs)
 Cable Network - Large (More than 50mln subs)

Category definitions, FAQs, a list of last year's winners, and to enter online at www.CableFAX.com/BOW

Compiling Your Entry (Visit www.CableFAX.com/BOW11 for full details)

What to Send

At the beginning of your 2-3 page synopsis, include the following information for all categories:

- Category entered • Title of entry • Key contact for entry • Organization submitting entry

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Mary Lou French
CableFAX's Best of the Web Awards
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* Payment in full must accompany the entry.
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The awards are presented by the most trusted information source in cable: CableFAX Daily and sister brand CableFAX: The Magazine.

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supportive of compensatory damages and wants a strong anti-retaliation rule.

Xboxing: Set to launch live viewing of 26 cable nets (17 in HD) including **HBO, Nickelodeon, TNT** and **Food** via the **Xbox** gaming console next month, **Verizon FiOS** is touting the play with a new bundled offering. New subs who sign up online can score a 3-play service for \$90/month that features FiOS TV, 35Mbps Internet service and phone plus a 12-month Xbox Live Gold membership and the “Xbox Halo: Combat Evolved Anniversary” game. Access to the channels is restricted to subs of FiOS TV, Internet and Gold. As VZ plans to add more live channels to Xbox going forward, **AT&T U-verse** already features live TV through the console and **Comcast** will soon offer access to VOD content—all to target a sought-after demo. Data from the big holiday shopping weekend show solid sales for Xbox, already the top console in the US. Microsoft said it sold nearly 400K in Oct, up 21% YOY.

Retrans: Perhaps **Comcast** will be able to navigate the increasingly choppy retrans waters better than most ops by virtue of its ownership of **NBC**, but **Moody's** echoed the sentiments of **CBS** boss *Les Moonves* and others in forecasting Tues a sharp future increase in retrans fees. Broadcasters, said the firm, are expected to reap \$3.6bln from pay TV ops in '17, up from \$1.2bln currently and driven in part by ramping reverse compensation demands of the Big 4 that must be offset. For pure-play broadcasters, said Moody's, “the near-term cash flow benefits of increased retransmission fees will disappear unless broadcasters can outpace reverse compensation by negotiating higher retransmission fees from pay-TV providers.” The importance of retrans rev to broadcasters is underscored by Moody's estimate of just a 3% annual growth rate in the industry's overall ad rev through '17. Pay TV still holds a decent hand, though, as the Big 4 continue to adopt new content platforms and aren't afraid to deal directly with ops. “These emerging options may increasingly call into question the value of a pure-play television broadcaster,” said Moody's.

On the Hill: Dueling spectrum legislation was introduced in the House Tues. **House Communications** subcmte chmn *Greg Walden* (R-OR) unveiled his JOBS act, while Dems put forth the “Wireless Innovation and Public Safety Act.” Both would allow for voluntary incentive auctions for broadcast spectrum. Key differences involve governance of the nationwide, interoperable public safety network; treatment of unlicensed spectrum and next-gen 911 as well as FCC authority over bidding eligibility. Walden's bill is slated for markup in the subcmte Thurs, with House Commerce ranking member *Henry Waxman* (D-CA) saying Dems are hopeful a bipartisan compromise can be reached. -- At press time, **House Commerce** was marking up Walden's **FCC** reform bill. Dems oppose the legislation, with Waxman declaring that, “it would not reform the FCC, but disable it...it would stymie the ability of the agency to do much of anything except supply scorecards to Congress.”

At the Portals: The **FCC** granted **AT&T's** request to withdraw its application to acquire **T-Mobile**. The FCC is releasing the staff report on the deal. This was the final report issued to Commissioners, designed for public release from the start. It was expected to be posted on the FCC site Tues afternoon. The FCC will keep the docket open, meaning ex partes on the merger will have to be reported publicly. The staff report concluded that AT&T and T-Mobile failed to show the transaction would outweigh public harm.

In the States: As promised, **Time Warner Cable** made its free TV app available to Android tablets. It allows digital subs to program their DVRs and use their tablets as remote controls. No live TV viewing—yet. -- **Visible World** unveiled an ad-

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dressable ad solution that's compliant with tru2way-enabled devices including DVR set-tops and Home Gateways running tru2way middleware. The tech allows advertisers to use general demo data, industry specific data or proprietary data to target different sets of home.

Privacy: The FTC announced a settlement with Facebook over charges it deceived consumers over the privacy of information shared on the social network site. The proposed settlement requires periodic assessments of privacy practices by independent auditors for the next 20 years. Other specifics include Facebook being required to obtain consumers' affirmative express consent before enacting changes that override their privacy preferences. FTC chmn *Jon Leibowitz* said the settlement should be a signal to all companies that the agency takes privacy seriously. Sen Commerce chmn *Jay Rockefeller* (D-WV) said the action against Facebook is just the 1st step toward protecting consumers, calling for legislation that will empower consumers to protect their personal info.

Business/Finance: Liberty Media completed its combination of the Liberty Starz and Liberty Capital tracking stocks late Mon, and the combined asset-backed security began trading Tues under LMCA and LMCB. LMCA shares settled at \$75.68. Some analysts believe the combo makes more likely a sale of the related assets including Starz.

CableFAX Daily Stockwatch

Company	11/29 Close	1-Day Ch	Company	11/29 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	45.67	(0.03)	CLEARWIRE:	1.58	(0.01)
DISH:	24.01	(0.02)	CONCURRENT:	3.37	(0.02)
DISNEY:	34.00	(0.07)	CONVERGYS:	12.17	0.04
GE:	14.92	0.12	CSG SYSTEMS:	14.26	0.04
NEWS CORP:	16.91	0.10	ECHOSTAR:	21.24	(0.13)
MSOS					
CABLEVISION:	14.74	(0.01)	GOOGLE:	582.93	(5.26)
CHARTER:	52.64	(0.11)	HARMONIC:	4.97	(0.04)
COMCAST:	21.75	UNCH	INTEL:	23.58	0.12
COMCAST SPCL:	21.56	0.07	JDSU:	10.22	(0.03)
GCI:	9.17	UNCH	LEVEL 3:	19.59	0.84
KNOLOGY:	13.92	(0.05)	MICROSOFT:	24.84	(0.03)
LIBERTY GLOBAL:	38.24	(0.8)	MOTOROLA MOBILITY:	38.79	0.09
LIBERTY INT:	15.82	0.21	RENTRAK:	13.13	(0.3)
SHAW COMM:	19.81	(0.05)	SEACHANGE:	7.53	(0.16)
TIME WARNER CABLE:	57.81	0.40	SONY:	17.57	0.05
VIRGIN MEDIA:	22.33	0.35	SPRINT NEXTEL:	2.50	0.05
WASH POST:	348.00	3.96	THOMAS & BETTS:	49.57	(0.61)
PROGRAMMING					
AMC NETWORKS:	35.31	0.11	TIVO:	9.56	(0.07)
CBS:	24.62	0.23	UNIVERSAL ELEC:	15.25	(0.08)
CROWN:	1.40	(0.03)	VONAGE:	2.39	0.01
DISCOVERY:	40.25	0.02	YAHOO:	15.70	0.35
GRUPO TELEVISIA:	19.00	(0.31)	TELCOS		
HSN:	34.16	0.06	AT&T:	28.06	0.11
INTERACTIVE CORP:	40.60	(0.07)	VERIZON:	36.63	0.38
LIONSGATE:	8.44	(0.09)	MARKET INDICES		
LODGENET:	2.06	(0.04)	DOW:	11555.63	32.62
NEW FRONTIER:	1.07	0.02	NASDAQ:	2515.51	(11.83)
OUTDOOR:	6.38	UNCH	S&P 500:	1195.19	2.64
SCRIPPS INT:	38.77	(0.12)			
TIME WARNER:	33.38	0.07			
VALUEVISION:	1.70	UNCH			
VIACOM:	51.17	0.46			
WWE:	9.11	(0.14)			
TECHNOLOGY					
ADDVANTAGE:	1.99	(0.03)			
ALCATEL LUCENT:	1.58	(0.03)			
AMDOCS:	27.77	(0.12)			
AMPHENOL:	42.74	(0.15)			
AOL:	13.82	0.03			
APPLE:	373.20	(2.92)			
ARRIS GROUP:	10.22	(0.18)			
AVID TECH:	7.23	0.18			
BLNDER TONGUE:	1.14	0.04			
BROADCOM:	29.33	(0.84)			
CISCO:	17.68	(0.33)			

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