

# CableFAX Daily™

Friday — December 2, 2011

What the Industry Reads First

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## Regulatory Landscape: More Calls for Telecom Act Revamp

With Dec upon us, major cable and telecom players used a public policy panel Thurs to describe their wish lists—less regulation, revisions to the Telecom Act and more opportunities for markets to police themselves. Maybe it was his background as an **FCC** chmn that made **NCTA** chief *Michael Powell* acknowledge that it would strain credibility to say markets work all the time—even though he agreed that sometimes industry players can police themselves (like with net neutrality). Instead, Powell said the govt needs standards of demonstrable harm before stepping in—arguing that any good lawyer can think of a list of what-if scenarios that will never come to fruition. Powell told the crowd at the **Phoenix Center's** annual US Telecom Symposium his biggest complaint is uncertainty. Back when he was FCC chmn, the '96 Telecom Act was relatively young with many proceedings with tight deadlines. Now, Powell said the Act's agenda has "grayed" with the potential for mischief anytime "someone gets a bee in their bonnet." **CTIA** pres *Steve Largent* complained that it's easy to get a new rule made, but almost impossible to get it off the books when it's out of date. Part of the problem, explained **AT&T** sr evp *Jim Cicconi*, is the disconnect between the more modern expectations of the FCC and the laws in place. "It leads to adventurism in trying to interpret their own statutes," he said. "We have a mushing together of technologies, yet we treat them all very different. It inhibits investment and innovation. The status quo is not acceptable. Take a fresh look at the Telecom Act and the problems of today." And we're talking about a radically new model. **Facebook** might not be a phone or cable service, but it's the way his son communicates without ever picking up a phone, Powell said. He rightfully noted that if the panel was at a cable conference, everyone would be asking about cord-cutting and its disruptive potential. "If that's on your mind, why isn't it on the mind of regulatory thinking?" Powell asked. But be careful how you explore those new technologies. Powell ranted about using NPRMs as a data collection tool, leaving industries in limbo over rulemakings that never come to conclusion. "Right or wrong, damn it, do something," he said. "I think the government owes you finality." -- Cicconi stayed away from the **AT&T-Mobile** deal at the conference but wasn't mum in a scathing blog post Thurs on the FCC's staff report. "The document is so obviously one-sided that any fair-minded person reading it is left with the clear impression that it is an advocacy piece, and not a considered analysis," he wrote. Cicconi clarified in the blog that his Phoenix Center comments were "not meant as a criticism of the FCC—it was a call for the Congress to clarify the issue by reexamining the Telecom Act."



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Source: The Nielsen Company. Live+SD Cov. Rtg.(XX) and Impressions (000) among Adults 25-54 during Prime (M-Su 8p-12a) in historical NHI Novembers. Qualifications available upon request.

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**On the Hill:** The House Communications subcmte approved the Republican version of spectrum auction legislation, sending it on to full committee for markup. An attempt by Dems to substitute their own bill was defeated. While the committee was debating the bill, across town NCTA chief *Michael Powell* called the legislation significant because it's "the 1st time the govt has said there is a higher and better use for spectrum than broadcast." Sen *Kay Bailey Hutchison* (R-TX) said she believes the House's JOBS Act, authored by subcmte chmn *Greg Walden* (R-OR), is complimentary to the bipartisan bill she and chmn *Jay Rockefeller* (D-WV) passed in Sen Commerce. The Republican House bill sets aside \$3bln to repay TV stations if they are forced to move to new broadcast frequencies. A Democratic version set aside only \$1bln. One compromise from the GOP was to allocate the D-Block for public safety instead of auctioning it.

**Retrans:** 'Tis the season! **Hearst** has a lot of retrans consent deals up at the end of the year, including **AT&T, Charter** and **Mediacom**. Too early to say if this might turn ugly. Some stations, including Sacramento-based **KCRA**, have already notified subs that they may not be able to view programming on their cable system if negotiations aren't successfully concluded before Dec 31. Other MVPDs with retrans deals up at year-end include **SureWest, Wave Broadband, Caltel, Coast Cablevision** and **Windjammer**.

**Under Attack:** **Cablevision** said it experienced a Distributed Denial of Service attack on its Optimum Online network that began at about 6pm Tues. The MSO said it was resolved just after midnight, with all services returning to normal. The attack caused a disruptive increase in automated requests on a portion of the network, which impacted the ability of some customers to access certain Websites and other Internet services. Cablevision is investigating the cause of the attack. It certainly isn't the only company to have experienced a DDoS attack in recent months. Last year, 2 men were sentenced to 18 months in prison for conspiring to disrupt service at **Comcast.net** in '08.

**In the States:** In markets where it has deployed **DOCSIS 3.0**, or approx 95% of its Internet service area, **Charter** is upping (again) the residential Internet speeds it offers through Charter Internet Express to 15/3Mbps from 12/1Mbps, through Charter Internet Plus to 30/4Mbps from 18/2Mbps and through the newly christened Charter Internet Ultra100 to 100/5Mbps from 60/5Mbps. The MSO's also ramped the speeds offered through its commercial Internet plans. -- **HBO Go** has delivered 98mln video streams to subs so far, said **HBO** co-pres *Eric Kessler* Wed at **VideoSchmooze NYC**. Kessler went on to indirectly schmooze with ops by saying the premium net has no plans to offer Go to non-paying subs, although it retains the right to do just that.

**Lifeline:** **Clearwire** made a \$237mln interest payment this week that CEO *Erik Prusch* previously said might not happen, perhaps due to Sprint's agreement to provide the company with up to \$1.6bln over the next 4 years in payments for **WiMAX** services, possible pre-payments for **LTE** buildout/services and potential equity investments. Clearwire will receive a total of \$926mln for unlimited WiMAX services in '12 and '13, and Sprint gains access to Clearwire's WiMAX network through '13 at least '15. Predictably, CLWR shares soared 14.04% Thurs on the pact. **Sanford Bernstein's Craig Moffett** said the news is positive, if only because it offers clarity to what has been a murky relationship marred by unknown plans. He did note, however, that left unanswered are questions surrounding the completion of Clearwire's network and Sprint's need of additional spectrum. "The deal does not involve funds sufficient to expand Clearwire's coverage beyond where it is today," said Moffett, adding that Sprint's network sharing agreement with LightSquared remains contingent on Light working through its GPS interference and fundraising issues. Sprint shares were flat Thurs.

**Advertising:** Back and forth go **Comcast** and **Verizon**. After the **National Advertising Division** of the **Council of Better Business Bureaus** sided with **Verizon** in Sept and recommended Comcast discontinue its advertising claims of "best picture quality available," the NAD has now recommended that Verizon cease running ads claiming "FiOS TV rates #1 in HD picture quality" after a challenge from Comcast. VZ's claim cited a **ChangeWave** survey, which NAD said was missing criteria needed for a proper evaluation of a study including the type and size of TV sets used to watch HD content.

**Programming:** **WWE, USA** and **NBC** will honor the armed forces with "WWE Tribute to the Troops" presented by **Slim Jim**. The ninth annual holiday special will air a 2-hour show on USA (Dec 13) and a 1-hour special on NBC (Dec 17). Famous guests will include *Mary J. Blige, Nickleback, Maria Menounos, George Wallace, Miss USA* and WWE stars. -- Writer *Kate Lansier* signs with **VH1** on to write a series of music focused bio-pic films featuring musicians and pop culture icons. The first feature will be a special on '90s hip/hop trio **TLC**. The surviving two members of the group will serve as consul-

# BUSINESS & FINANCE

tants and exec producers of the film. -- **Universal Sports Net's** original series "Against the Tide" (Dec 14) chronicles the desired return of Olympic medalist *Ed Moses* to the Games 6 years removed from competitive swimming.

**Public Affairs: A&E and The Partnership for a Drug-Free New Jersey** join to hold a town hall meeting raising awareness on prescription drug abuse among NJ youth. **ABC** news correspondent *Deborah Roberts* will moderate the event at The Newark Museum Tues.

**Ratings: Disney XD** scored its most-watched Nov ever in total day among P2+ (298K), kids 2-11 (162K), kids 6-14 (163K), kids 6-11 (127K) and tweens 9-14 (108K). The net also notched its most-watched Nov in prime among several demos. -- **Golf Channel's** best Nov in history included 13.8mln unique viewers and an avg of 124K viewers/day. The month was also the net's best of '11 and 2nd-best ever, and featured its most-watched week, day and night ever.

**Honors: Cfax** sister pub **Communications Technology** named **Buckeye CableSystem** as its '11 System of the Year for its push to upgrade and improve technical operations, innovation in testing and dev, high customer satisfaction, advanced services deployment and other factors. -- **Comedy Central Records** earned a pair of "Best Comedy Album" Grammy nominations for *Louis C.K.'s* "Hilarious" and *Patton Oswalt's* "Finest Hour."

## CableFAX Daily Stockwatch

Company	12/01 Close	1-Day Ch	Company	12/01 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DIRECTV:	47.87	0.65	CLEARWIRE:	2.03	0.25
DISH:	24.58	0.01	CONCURRENT:	3.40	0.15
DISNEY:	35.99	0.14	CONVERGYS:	12.59	(0.33)
GE:	15.91	UNCH	CSG SYSTEMS:	14.98	(0.19)
NEWS CORP:	17.86	0.01	ECHOSTAR:	22.47	0.49
<b>MSOS</b>					
CABLEVISION:	14.94	(0.06)	GOOGLE:	613.77	14.38
CHARTER:	52.81	(0.06)	HARMONIC:	5.33	(0.04)
COMCAST:	22.57	(0.1)	INTEL:	24.92	0.01
COMCAST SPCL:	22.38	0.02	JDSU:	10.81	(0.17)
GCI:	10.03	(0.16)	LEVEL 3:	20.31	(0.3)
KNOWLOGY:	14.21	(0.04)	MICROSOFT:	25.28	(0.3)
LIBERTY GLOBAL:	40.07	0.68	MOTOROLA MOBILITY:	38.72	(0.28)
LIBERTY INT:	16.03	(0.23)	RENTRAK:	14.09	0.04
SHAW COMM:	20.61	(0.02)	SEACHANGE:	7.46	(0.55)
TIME WARNER CABLE:	60.92	0.44	SONY:	17.99	(0.06)
VIRGIN MEDIA:	22.53	0.37	SPRINT NEXTEL:	2.70	UNCH
WASH POST:	358.79	(0.12)	THOMAS & BETTS:	51.81	(0.2)
<b>PROGRAMMING</b>					
AMC NETWORKS:	35.81	(0.19)	TIVO:	9.86	(0.02)
CBS:	25.42	(0.62)	UNIVERSAL ELEC:	16.57	0.25
CROWN:	1.44	(0.04)	VONAGE:	2.38	(0.2)
DISCOVERY:	41.18	(0.8)	YAHOO:	16.23	0.52
GRUPO TELEVISIA:	20.42	(0.34)	<b>TELCOS</b>		
HSN:	36.14	0.34	AT&T:	28.84	(0.14)
INTERACTIVE CORP:	42.18	0.30	VERIZON:	37.77	0.04
LIONSGATE:	8.42	(0.37)	<b>MARKET INDICES</b>		
LODGENET:	2.14	0.04	DOW:	12020.03	(25.65)
NEW FRONTIER:	1.07	(0.02)	NASDAQ:	2626.20	5.86
OUTDOOR:	6.84	(0.15)	S&P 500:	1244.58	(2.38)
SCRIPPS INT:	39.81	(0.01)	<b>TECHNOLOGY</b>		
TIME WARNER:	34.21	(0.61)	ADDVANTAGE:	1.96	UNCH
VALUEVISION:	1.93	0.03	ALCATEL LUCENT:	1.64	0.02
VIACOM:	51.87	UNCH	AMDOCS:	28.48	0.24
WWE:	9.55	(0.07)	AMPHENOL:	45.24	(0.09)
<b>TECHNOLOGY</b>					
ADDVANTAGE:	1.96	UNCH	AOL:	13.92	(0.42)
ALCATEL LUCENT:	1.64	0.02	APPLE:	387.93	5.73
AMDOCS:	28.48	0.24	ARRIS GROUP:	10.64	(0.11)
AMPHENOL:	45.24	(0.09)	AVID TECH:	7.59	(0.37)
AOL:	13.92	(0.42)	BLNDER TONGUE:	1.20	0.04
APPLE:	387.93	5.73	BROADCOM:	30.64	0.29
ARRIS GROUP:	10.64	(0.11)	CISCO:	18.58	(0.06)
AVID TECH:	7.59	(0.37)			
BLNDER TONGUE:	1.20	0.04			
BROADCOM:	30.64	0.29			
CISCO:	18.58	(0.06)			



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**PROGRAMMER'S PAGE** with Chad Heiges and Seth Arenstein

**Nicked Up**

What's going on at **Nickelodeon**? After the net's total day viewership slipped 9% in Sept and 15% in Oct, according to Nielsen data, Nov brought a deeper decline of -18% and a surprising loss to **Disney Channel** in total day from Nov 14-20. Recall that **Viacom** pres/CEO *Philippe Dauman* blamed Nick's recent downturn on Nielsen (*Cfax*, 11/11), a logical reaction given the net's typically model consistency. But Nielsen denied any wrongdoing, and 3 months of data points to a troubling trend. Nick failed to respond to requests for comment on the situation, although Dauman did allow recently that a "great deal" of fresh animation and live action content should help going forward. Let's see if telecast data can offer any clues about Nick's woes. Rewind to Nov '10 when the channel notched 29 of the month's top 103 telecasts, well ahead of closest competitor **ESPN** (16). Led by "Victorious: Freak Out" (5.27mIn), those 29 averaged 4.43mIn total viewers, a tally that not surprisingly ranked below ESPN's (6.97mIn) mostly football telecasts but also trailed **USA's** 15 programs (4.78mIn), Disney Channel's 13 (4.93mIn) and **Fox News' 9** (5.67mIn). This year, Nick scored a comparatively disappointing 17 of Nov's 100 top telecasts while allowing both ESPN (22) and USA (19) to earn more. That 17, led by an ep of "SpongeBob SquarePants" (4.45mIn) averaged 4.06mIn total viewers—behind ESPN's 6.22mIn avg, USA's 4.62mIn, **AMC's** 6.81mIn for 6 telecasts and Disney's 4.40mIn for 13. Although Disney notched the same number of top programs over the past 2 Novembers, its avg fell like Nick's, but so did ESPN's and USA's. So it would be a stretch to assume that eyeballs tuning to kids programming were down across the board last month, particularly since Disney (+3%), **Disney XD** (+8%), **Nicktoons** (+8%), **Nick Jr.** (+1%) and **Sprout** (+35%) all posted gains in Nov total day. No answers emerge for Nick's trouble, although its presence remains clear. *CH*

**Highlights:** "One Lucky Elephant," 9p, Thurs, **OWN**. People say a lot of things about *Oprah* and OWN, but OWN's presented many excellent docs. The latest, about a man's 20-year love affair with an elephant, is brilliant. Humorous—the man treats 8K-lb Flora like the daughter he never had—and deadly serious—Flora savagely attacks a woman—the piece allows you to decide whether or not Flora, and other captive wild animals, are indeed lucky. -- "Pearl Harbor: 24 Hours After," Wed, 8pET, **History**. On the 70th anniversary of Pearl Harbor, History looks at *FDR's* response, including having to wait nearly 2 hours for accurate intelligence and his drafting of the "day of infamy" speech. *SA*

**Worth a Look:** "The Take," Fri, 9p, **Starz**. There's much to admire about this 4-part drama about the British underworld, although it's hard to believe animalistic chief bad guy Freddie (*Tom Hardy*) lasts for years. His brutalizing of nearly everyone around him would have gotten him killed early had he been a character in "The Sopranos." -- "A Princess for Christmas," Sat, 8p, **Hallmark Channel**. There's so much sugar in this predictable but charming holiday story that diabetics should be warned. Still, it's got *Sir Roger Moore* and his stuffy house staff thawing out a la Scrooge at a magnificent castle in Lichtenstein. *SA*

Basic Cable Rankings (10/31/11-11/27/11) Mon-Sun Prime			
Rank	Network	Rtg	(000s)
1	ESPN	1.5	3657
2	USA	1.2	2949
3	DSNY	1	2623
4	FOXN	0.7	1746
4	TBSC	0.7	1729
6	HIST	0.6	1570
6	FX	0.6	1506
6	AMC	0.6	1469
6	A&E	0.6	1459
6	FAM	0.6	1417
6	HALL	0.6	1329
6	NFLN	0.6	903
13	TNT	0.5	1313
13	FOOD	0.5	1274
13	DISC	0.5	1254
13	NAN	0.5	1236
13	SYFY	0.5	1226
13	ADSM	0.5	1200
19	HGTV	0.4	1095
19	TLC	0.4	1031
19	CMDY	0.4	992
19	BRAV	0.4	967
19	TRU	0.4	931
19	SPK	0.4	897
19	BET	0.4	839
19	NKJR	0.4	770
19	DSE	0.4	98
28	LIFE	0.3	864
28	MSNB	0.3	733
28	TVLD	0.3	719
28	MTV	0.3	695
28	CNN	0.3	641
28	ESP2	0.3	634
28	LMN	0.3	579
28	ID	0.3	560
36	VH1	0.2	585
36	APL	0.2	539
36	EN	0.2	530
36	OXYG	0.2	409
36	TRAV	0.2	404
36	NGC	0.2	400
36	HLN	0.2	388
36	DXD	0.2	337
36	GOLF	0.2	333
36	GSN	0.2	325

\*Nielsen data supplied by ABC/Disney



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