

# CableFAX Daily™

Monday — December 16, 2013

What the Industry Reads First

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## On the Field: NCTA's Powell Calls Retrans Consent 'Fractured'

Not long after *Michael Powell* joined NCTA in '11, comments were due at the FCC on a rulemaking for retrans consent changes. The trade group opted not to weigh in, given the tensions between members. That rulemaking is still pending with no sign of action at the Commission; so on Thurs, some members of Congress introduced their own suggestions for reforming retrans (*Cfax*, 12/13). This time around NCTA spoke up, saying it welcomed an examination of the retrans regime. "We have not always played on this, but I don't think it's right to say we're off the field on this issue or we won't participate in it in limited ways that our membership is comfortable with," Powell told *CableFAX*. It's not the 1st time NCTA has dipped its toe in retrans waters. In late '10, shortly before largest member **Comcast** closed on the **NBCU** transaction, the association called the FCC's retrans review a "constructive step forward" and said significant changes in the marketplace warrant a "fresh look." But it has been largely on the sidelines, with individual companies, such as **Time Warner Cable** and **Charter**, as well as indy operator group **ACA** making the most retrans noise. NCTA's supportive comments this week are the 1st the group has made since this summer's heated **CBS**-Time Warner Cable showdown. But just how much NCTA is willing to do remains to be seen (for example, it has been critical of the idea of binding arbitration in years past). It sounds like the trade group will balance programmer/operator concerns by focusing on the role govt should play—not the nitty gritty details of negotiations. "It's a complex issue, period. It doesn't matter who you're membership is," Powell told us. "Absolutely someone who has really valuable content ought to be paid fairly for their content. That's not the issue... I do think there is a little bit that's fractured with retransmission consent." The problem, he said, is calling it a free market negotiation when the govt is setting parameters and conditions that govern the negotiation. "You've got to carry the broadcast channels no matter what. You're not allowed to import a distant signal. These are things the govt has inserted in the negotiated dialog, not the other party. Not either of our companies," Powell said. "I think some of the original reasons for that are highly questionable in 2013. In 1992, there were no other distributor competitors. Cable had over 98% of the market. Today, we have under 55% of the market. And a lot of these rules don't equally apply to the same distributors." For example, satellite is not subject to the same must buy rules as cable. Those comments are in line with retrans remarks Powell's predecessor *Kyle McSarrow* made over the years. Nothing much ever came of that, and time will tell if this latest push for retrans reform gets off the ground. The fact that House Communications chmn *Greg Walden* (R-OR) wants to start work on a Communications Act update might signal new hope for reform proponents.

**Bear Hug:** Multiple reports have **Charter** prepping an offer for next week of less than \$135/share in cash and stock to buy **Time Warner Cable**. *Bloomberg*, which has been all over the TWC dance, was the 1st outlet to report the news of the proposal. Last week, the *Bloomberg's Alex Sherman* reported that TWC would probably accept a bid in the \$150-\$160 range. Neither TWC or Charter offered comment. The news didn't do much for TWC's stock, which

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closed up just 0.27% Fri. Charter shares shed just about as much, closing down 0.32%. -- Don't have enough merger rumblings to keep track of? The *WSJ* reported Fri that **Sprint** may be considering a bid for **T-Mobile** in early 2014.

**No News is Good News?** With **Time Warner Cable** set to drop **NBCU-owned New England Cable News** at the end of the year, MA lawmakers are pressuring the MSO to keep the Boston-based net on its systems. MA Sens *Elizabeth Warren* and *Ed Markey* as well as Rep *Richard Neal*, wrote a letter saying it is "unconscionable" to remove the channel. They say it's especially bad news seeing as TWC has lost **Hearst-owned** Boston-based stations in the Berkshires, with those residents now receiving nightly newscasts from Albany. Now with **NECN** being taken off the airwaves, the residents have almost no access to Boston news," they wrote. TWC said the loss of **NECN** will only affect a small percentage of its sub base. "We've invested millions of dollars in our carriage of **NECN**, and they simply haven't delivered the value," the MSO said.

**TVE:** **Verizon FiOS** TV subs now can watch **Fox News** and **Fox Business** on the **FiOS Mobile** app, with the number of live channels available outside the home now at 27 for Verizon.

**Retrans:** With renewed talk of revisiting retrans, you had to know **Mediacom** gen counsel *Joseph Young* would weigh in. His colorful letters to the **FCC** often compare the retrans marketplace to television shows, and Fri's missive was no exception. "*Walter White*, the antihero in the TV series 'Breaking Bad,' once recommended to his associates in the crystal meth business this road to riches: 'Corner the market, then raise the price.'" You see where this is going, no doubt. Young decried a recent **NAB** ad that declared, "When the free market works, viewers win," arguing that retrans consent isn't a competitive market. "One does not need to be a rocket scientist, brain surgeon, economics professor or even high school chemistry teacher to understand that an unregulated market with a single supplier and multiple competitive buyers will not produce socially optimal results," he wrote.

**In the Courts:** **Public Knowledge**, **The Electronic Frontier Foundation** and **Engine Advocacy** filed a friend of the court brief Fri, asking the DC Court of Appeals to reconsider a lower court's decision to shut down **FilmOn X** prior to trial. "So-called 'preliminary injunctions' are supposed to be unusual orders, which courts grant only after carefully weighing a number of factors, such as whether the supposed harm is 'irreparable,' and in the public interest. In this case, the District Court gave almost no attention to the public interest," said PK sr staff atty *John Bergmayer*. The **Computer & Communications Industry Assn**, joined by **CDT**, **CTIA**, **i2Coalition** and **USTelecom**, also filed a brief in the case. It doesn't support either party, but instead argues that whatever the court decides, it should "at a minimum approach this case in a way that preserves the holding in *Cablevision* [Remote DVR case] and respects and reflects these principles." The *Cablevision* case established what Internet functions may be regulated by the Copyright Act and which may not, they said.

**People:** **Pivot**, which launched in Aug, named *Jennie Morris*, svp of acquisition and operations, and *Jerry Blake*, svp of business and legal affairs. *Blake* will report to *Jeff Ivers*, COO, **Participant Media** and *Evan Shapiro*, pres, **Pivot**, and *Morris* will report to *Kent Rees*, evp, marketing, scheduling and operations. -- *Jennifer Sabatelle* was upped to svp, comm for **CBS Sports**.

**Editor's Note:** Don't forget to register for our content marketing webinar on Tues! More info at [www.cablefax.com](http://www.cablefax.com)

## CableFAX webinar

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**CableFAX Week in Review**

| Company | Ticker | 12/13 Close | 1-Week % Chg | YTD %Chg |
|---------|--------|-------------|--------------|----------|
|---------|--------|-------------|--------------|----------|

**BROADCASTERS/DBS/MMDS**

|                   |      |       |         |        |
|-------------------|------|-------|---------|--------|
| 21ST CENTURY FOX: | FOXA | 32.93 | (0.63%) | 0.00%  |
| DIRECTV:          | DTV  | 66.63 | 0.29%   | 32.83% |
| DISH:             | DISH | 53.29 | (2.7%)  | 46.40% |
| DISNEY:           | DIS  | 69.62 | (2.57%) | 39.83% |
| GE:               | GE   | 26.84 | (0.37%) | 27.87% |

**MSOS**

|                    |       |        |         |        |
|--------------------|-------|--------|---------|--------|
| CABLEVISION:       | CVC   | 16.30  | 1.88%   | 9.10%  |
| CHARTER:           | CHTR  | 131.54 | 2.97%   | 72.53% |
| COMCAST:           | CMCSA | 49.01  | (0.53%) | 31.18% |
| COMCAST SPCL:      | CMCSK | 47.52  | 0.08%   | 32.29% |
| GCI:               | GNCMA | 9.89   | 4.00%   | 3.13%  |
| LIBERTY GLOBAL:    | LBTYA | 84.47  | (0.83%) | 34.16% |
| LIBERTY INT:       | LINTA | 27.66  | (0.07%) | 40.55% |
| SHAW COMM:         | SJR   | 23.51  | (1.22%) | 2.31%  |
| TIME WARNER CABLE: | TWC   | 131.41 | 0.31%   | 35.21% |

**PROGRAMMING**

|                        |       |       |         |         |
|------------------------|-------|-------|---------|---------|
| AMC NETWORKS:          | AMCX  | 64.52 | 1.54%   | 30.34%  |
| CBS:                   | CBS   | 58.42 | (0.81%) | 53.53%  |
| CROWN:                 | CRWN  | 3.31  | (2.65%) | 78.92%  |
| DISCOVERY:             | DISCA | 82.45 | (5.11%) | 29.88%  |
| GRUPO TELEVISIA:       | TV    | 29.65 | 3.82%   | 11.55%  |
| HSN:                   | HSNI  | 60.64 | 1.32%   | 10.09%  |
| INTERACTIVE CORP:      | IACI  | 59.85 | 6.38%   | 26.69%  |
| LIONSGATE:             | LGF   | 28.26 | (8.04%) | 72.32%  |
| MADISON SQUARE GARDEN: | MSG   | 54.91 | (2.38%) | 23.81%  |
| SCRIPPS INT:           | SNI   | 80.73 | 9.11%   | 39.38%  |
| STARZ:                 | STRZA | 27.41 | (3.96%) | 0.00%   |
| TIME WARNER:           | TWX   | 65.55 | (1.53%) | 37.05%  |
| VALUEVISION:           | VTV   | 6.36  | (0.47%) | 253.33% |
| VIACOM:                | VIA   | 81.35 | (1.2%)  | 49.90%  |
| WWE:                   | WWE   | 14.31 | (0.97%) | 81.37%  |

**TECHNOLOGY**

|                 |      |         |         |          |
|-----------------|------|---------|---------|----------|
| ADDVANTAGE:     | AEY  | 2.52    | (3.45%) | 26.63%   |
| ALCATEL LUCENT: | ALU  | 4.52    | 0.44%   | 225.18%  |
| AMDOCS:         | DOX  | 40.42   | (0.27%) | 18.92%   |
| AMPHENOL:       | APH  | 85.16   | (1.1%)  | 31.62%   |
| AOL:            | AOL  | 44.37   | (0.16%) | 49.85%   |
| APPLE:          | AAPL | 554.43  | (1%)    | 4.18%    |
| ARRIS GROUP:    | ARRS | 21.72   | 2.16%   | 45.38%   |
| AVID TECH:      | AVID | 8.14    | (7.18%) | 7.39%    |
| BLNDER TONGUE:  | BDR  | 0.94    | 1.51%   | (17.91%) |
| BROADCOM:       | BRCM | 28.01   | 1.74%   | (15.66%) |
| CISCO:          | CSCO | 20.24   | (4.89%) | 3.00%    |
| CONCURRENT:     | CCUR | 7.77    | 2.24%   | 35.37%   |
| CONVERGYS:      | CVG  | 19.94   | (2.78%) | 21.51%   |
| CSG SYSTEMS:    | CSGS | 28.68   | (1%)    | 57.76%   |
| ECHOSTAR:       | SATS | 47.16   | (2.8%)  | 37.81%   |
| GOOGLE:         | GOOG | 1060.79 | (0.85%) | 49.96%   |
| HARMONIC:       | HLIT | 6.67    | (9.62%) | 31.56%   |
| INTEL:          | INTC | 24.29   | (2.14%) | 17.80%   |
| JDSU:           | JDSU | 11.82   | (6.56%) | (12.44%) |
| LEVEL 3:        | LVT  | 30.41   | 0.86%   | 31.59%   |
| MICROSOFT:      | MSFT | 36.69   | (4.35%) | 37.36%   |

| Company | Ticker | 12/13 Close | 1-Week % Chg | YTD %Chg |
|---------|--------|-------------|--------------|----------|
|---------|--------|-------------|--------------|----------|

|                    |      |       |         |          |
|--------------------|------|-------|---------|----------|
| MOTOROLA MOBILITY: | MMI  | 14.26 | 2.74%   | (63.25%) |
| NIELSEN:           | NLSN | 45.62 | 4.75%   | 49.13%   |
| RENTRAK:           | RENT | 34.69 | (7.32%) | 77.99%   |
| SEACHANGE:         | SEAC | 11.43 | (4.99%) | 18.20%   |
| SONY:              | SNE  | 17.51 | (3.26%) | 56.34%   |
| SPRINT NEXTEL:     | S    | 8.43  | 6.84%   | 48.68%   |
| TIVO:              | TIVO | 12.39 | (1.59%) | 0.65%    |
| UNIVERSAL ELEC:    | UEIC | 36.68 | (1.16%) | 89.56%   |
| VONAGE:            | VG   | 3.22  | (3.59%) | 35.86%   |
| YAHOO:             | YHOO | 39.73 | 2.24%   | 99.65%   |

**TELCOS**

|          |    |       |         |        |
|----------|----|-------|---------|--------|
| AT&T:    | T  | 33.85 | (1.97%) | 0.42%  |
| VERIZON: | VZ | 47.84 | (3.31%) | 10.56% |

**MARKET INDICES**

|          |      |          |         |        |
|----------|------|----------|---------|--------|
| DOW:     | DJI  | 15755.36 | (1.65%) | 20.23% |
| NASDAQ:  | IXIC | 4000.97  | (1.51%) | 32.50% |
| S&P 500: | GSPC | 1775.32  | (1.65%) | 24.48% |

**WINNERS & LOSERS**

**THIS WEEK'S STOCK PRICE WINNERS**

| COMPANY              | CLOSE | 1-WK CH |
|----------------------|-------|---------|
| 1. SCRIPPS INT:      | 80.73 | 9.11%   |
| 2. SPRINT NEXTEL:    | 8.43  | 6.84%   |
| 3. INTERACTIVE CORP: | 59.85 | 6.38%   |
| 4. NIELSEN:          | 45.62 | 4.75%   |
| 5. GCI:              | 9.89  | 4.00%   |

**THIS WEEK'S STOCK PRICE LOSERS**

| COMPANY       | CLOSE | 1-WK CH |
|---------------|-------|---------|
| 1. HARMONIC:  | 6.67  | (9.62%) |
| 2. LIONSGATE: | 28.26 | (8.04%) |
| 3. RENTRAK:   | 34.69 | (7.32%) |
| 4. AVID TECH: | 8.14  | (7.18%) |
| 5. JDSU:      | 11.82 | (6.56%) |



**Well-rounded.\***

\*Coming soon from CableFAX.