

# CableFAX Daily™

Friday — December 17, 2010

What the Industry Reads First

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## Seeing Red: GOP Threatening Retaliation to FCC's Net Neutrality Plan

The typically happy holidays are anything but for a slew of Republican legislators miffed by FCC chmn *Julius Genachowski's* intention to adopt net neutrality rules at the Commission's Tues meeting. Ire is piqued as the day nears, and the language is becoming more forceful. "The FCC's bold disregard of the law and the facts is troublesome," wrote *Rep Mike Rogers* (R-MI) in a Thurs letter to Genachowski. "If this vote is successful, I intend to work with my colleagues to immediately move to enact a disapproval resolution through the Congressional Review Act as well as subpoena the Commission to examine your reasoning for ignoring the D.C. Circuit Court." Remember that the court's decision, rendered this past spring, favored **Comcast** by reversing a '08 FCC order barring the MSO from certain traffic management practices—chiefly because it believed the FCC had no authority to do so. In that case, the FCC attempted to assert what's called ancillary jurisdiction, which would have granted it regulatory authority in the matter even without Congressional assent on the basis of a statutory demand for regulation. With net neutrality, the Commission may try to use that gambit again, said *Gregory Garre*, chair, **Latham & Watkins'** Supreme Court and appellate practice and ex-Solicitor General during a Thurs conference call. Any net neutrality regulations would present "serious legal problems for the FCC," said Garre, who has filed comments on the matter on behalf of **Time Warner Cable**. "The major problem is trying to find the authority to regulate in this area." Particularly as so many Republican legislators are against the FCC's plan. Also this week, Sens *Johnny Isakson* (R-GA) and *Saxby Chambliss* (R-GA) joined 27 other senators in sending a letter to Genachowski that "strongly" urges the commissioner to abandon his intent to impose new restrictions on the Internet. "You and the Commission's general counsel have admitted in published statements that the legal justification for imposing these new regulations is questionable and 'has a serious risk of failure in court,'" wrote the senators. "That is absolutely right, because it is very clear that Congress has not granted the Commission the specific statutory authority to do what you are proposing."

**Retrans:** **Time Warner Cable** and **Sinclair** continue to bicker over their retrans negotiations, with the latter saying Thurs the MSO has refused to submit to binding arbitration. Sinclair said Time Warner's assertion that it has

## The CableFAXIES awards

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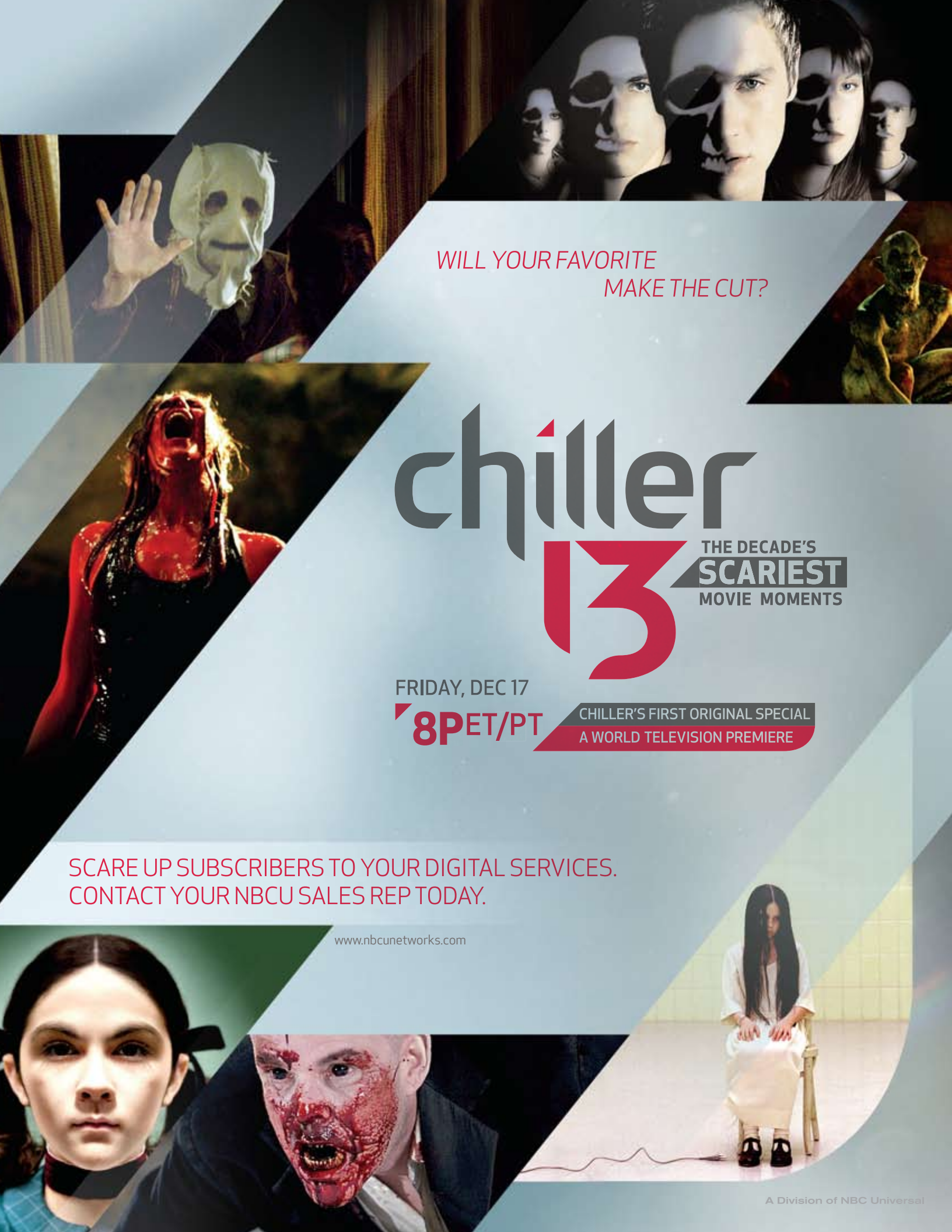
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consented to arbitration is deceptive because of “unreasonable conditions” the MSO placed on the arbitration, including its relation to a small number of stations covered in the negotiations and the limited amount of evidence that could be considered. TWC countered with this: “The issue is that Sinclair believes that they ought to be able to use arbitration for all of their stations, and we don’t believe that our customers should have to pay anything for **CW** and **MYNetwork** affiliates.” Instead, the MSO said it offered to give those affils must-carry status to ensure continued carriage. “Sinclair’s tactics are yet another example of how the retransmission consent process is broken... we’re hoping that Sinclair will begin to act in a more reasonable manner,” said TWC. -- **Smith Media** pulled its **NBC** affil in the Utica, NY, area from **Time Warner Cable**’s lineup Thurs morning after the pair’s retrans deadline passed. The MSO said 2 affected areas already receive another NBC station, and in others it made arrangements to offer NBC programming through a PA affil. Later, Smith pulled its ABC and Fox affils in Burlington, VT. -- No agreement has been reached in the **DISH-Chambers Comm** spat, meaning 3 **ABC** affil stations in OR are no longer carried by the DBS op.

**Spin It:** Cablevision’s board authorized the leveraged spin-off of **Rainbow Media** to CVC shareholders in a tax-free pro rata distribution expected to be completed by mid ’11. New Rainbow’s assets will include **AMC**, **WE tv**, **IFC**, **Sundance Channel**, **Wedding Central**, **IFC Ent** (IFC Films, IFC Prod and the IFC Center) and **Rainbow Network Comm**. **News 12 Nets**, **MSG Varsity** and **Newsday** will remain with CVC. As part of the transaction, a refinancing of the new Rainbow will create new debt, a portion of which will be used to repay approx \$1.25bln of CVC and/or **CSC Holdings** debt.

**Salary Survey:** Industry base pay remained stable this year, fewer employers froze salaries and incentives increased dramatically, according to **Cable and Telecommunications Human Resources Assn**, which said rapidly changing tech and the proliferation of online TV uniquely “led to the birth of new, highly sophisticated technical positions and fueled competition to secure the talent needed to fill them.” Salary adjustment budgets (which include pay raises delivered through a merit increase, promotional increase, market and/or cost of living adjustment) dropped slightly from ’09 for the 16 MSOs that participated in the survey and remained unchanged for content providers (50). 69% of the MSOs and 80% of the programmers offer long-term incentives such as stock options, shares and long-term cash that are linked to a company’s financial performance, while a respective 94% and 93% offer short-term incentives such as bonus rewards.

**Competition:** **DISH Cinema On Demand** rolled out several 3D movie selections including “A Christmas Carol” and “The Last Airbender,” and plans to add additional choices next month. Prices range from \$5.99-7.99.

**In the States:** At 67.1% of US TV homes, wired-cable penetration hit an all-time low in Nov, according to **TVB**, compared to 68.4% a year ago and 69.3% 3 years ago. -- **Comcast** added 50 new HD channels in Philadelphia, the 1st US city where the MSO offers 150 high-def nets. Additions include **BBC America**, **Ovation** and **Smithsonian**. -- **Suddenlink** launched the **TiVo Premiere** DVR in Lubbock and Midland, TX.

**Search Party:** **NCTA** commissioned **Korn Ferry Intl** to conduct a nationwide search for a successor to **Kyle McSlarrow**. Managing the search will be **Nels Olson**, who did the same for NCTA in ’05 when McSlarrow was hired. Inquiries about the pres/CEO position should be directed to Olson at [nels.olson@kornferry.com](mailto:nels.olson@kornferry.com).

**Online:** A new deal makes **NESN.com** the exclusive provider of New England and Boston sports news to **FoxSports.com**, which receives the right to both publish and directly link to NESN’s content.

**Programming:** **Showtime**’s planning a free preview weekend for Jan 7-10 that will put the premium net in 61mln homes. The jam-packed period will include the premieres of original series “Shameless” and “Episodes,” the 4th season bow of “Californication” and the premium TV debut of feature film “The Twilight Saga: New Moon.” -- ’11 will mark **Speed**’s most aggressive prime programming initiative ever, with 6 projects slated for premiere beginning Feb 21 and nearly 20 projects in different stages of dev. New shows include “Car Warriors” and “American Trucker.”

**Honors:** **HBO** (surprise!) paced all nets in **SAG Award** noms with 10 as “Temple Grandin” and “You Don’t Know Jack” earned 3 each. **AMC** and **Showtime** each received 4, carried by “Mad Men” (3) and “Dexter” (3), respectively. **TNT** (3), **TV Land** (2), **FX**, **Sundance Channel** and **USA** completed cable’s nom list. The broadcasters

# BUSINESS & FINANCE

tallied 18 overall, led by NBC (6) and show leader “Modern Family” (4) of ABC.

**People:** History upped Michael Stiller, Mary Donahue and Julian Hobbs to vps, dev and programming. -- Nickelodeon elevated Marc Epstein to vp, new business, integrated marketing. -- Universal Sports Network Properties pres Carlos Silva is leaving the company to pursue other business opportunities.

**Business/Finance:** Fitch’s ’11 outlook for the telecom/cable sector includes strong rev growth from commercial services, increasing demand for data-centric services and lower capex. For the media/ent sector, the firm foresees low single-digit growth in overall ad sales and mid single-digit growth for cable nets, additional acquisition activity and very little impact from cord cutting.

**Editor’s Note:** The holidays only get better when you “like” us on Facebook. And how else can you see hundreds of pictures from our recent CableFAX 100 and Most Powerful Women events. Check it out at [www.cablefax.com/facebook](http://www.cablefax.com/facebook). -- And don’t forget to get your nominations in for the Faxies. The Jan 21 deadline will be here before you know it. Nominate your favorite execs and campaigns at [www.cablefax.com/cfp/awards/cablefaxies2011/](http://www.cablefax.com/cfp/awards/cablefaxies2011/).

## CableFAX Daily Stockwatch

Company	12/16 Close	1-Day Ch	Company	12/16 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>					
DIRECTV:	39.57	(0.08)	AVID TECH:	18.25	0.27
DISH:	18.17	(0.01)	BIGBAND:	2.68	UNCH
DISNEY:	37.01	0.06	BLNDER TONGUE:	2.06	(0.04)
GE:	17.77	0.28	BROADCOM:	44.42	0.13
NEWS CORP:	16.14	0.11	CISCO:	19.75	0.28
<b>MSOS</b>					
CABLEVISION:	34.72	0.03	CLEARWIRE:	5.35	0.01
CHARTER:	37.73	(0.27)	COMMScope:	31.24	(0.03)
COMCAST:	21.65	0.04	CONCURRENT:	4.74	0.03
COMCAST SPCL:	20.24	(0.08)	CONVERGYS:	13.15	(0.09)
GCI:	12.92	0.04	CSG SYSTEMS:	18.98	0.03
KNOLGY:	15.73	0.20	ECHOSTAR:	21.34	0.35
LIBERTY CAPITAL:	60.03	(0.55)	GOOGLE:	591.71	1.41
LIBERTY GLOBAL:	35.78	0.20	HARMONIC:	8.23	0.76
LIBERTY INT:	15.85	0.05	INTEL:	21.30	0.02
MEDIACOM:	8.45	UNCH	JDSU:	14.28	0.41
SHAW COMM:	20.57	(0.08)	LEVEL 3:	0.95	0.01
TIME WARNER CABLE:	64.58	0.09	MICROSOFT:	27.99	0.14
VIRGIN MEDIA:	26.44	0.04	MOTOROLA:	8.88	0.41
WASH POST:	421.86	3.18	RENTRAK:	29.24	0.05
<b>PROGRAMMING</b>					
CBS:	18.00	0.21	SEACHANGE:	8.97	0.38
CROWN:	2.75	0.10	SONY:	35.59	(0.06)
DISCOVERY:	42.18	0.37	SPRINT NEXTEL:	4.17	(0.06)
GRUPO TELEVISA:	25.22	0.22	THOMAS & BETTS:	48.22	0.18
HSN:	30.74	0.64	TIVO:	8.34	0.14
INTERACTIVE CORP:	29.39	(0.09)	TOLLGRADE:	8.56	0.06
LIBERTY:	38.64	0.22	UNIVERSAL ELEC:	28.90	0.75
LIBERTY STARZ:	67.42	(0.59)	VONAGE:	2.40	0.02
LIONSGATE:	6.59	(0.08)	YAHOO:	16.51	0.06
LODGENET:	4.02	0.04	<b>TELCOS</b>		
NEW FRONTIER:	1.80	(0.01)	AT&T:	29.23	0.10
OUTDOOR:	7.17	0.29	QWEST:	7.46	(0.04)
PLAYBOY:	5.05	0.09	VERIZON:	34.76	0.13
SCRIPPS INT:	51.25	(0.14)	<b>MARKET INDICES</b>		
TIME WARNER:	31.25	(0.1)	DOW:	11499.25	41.78
VALUEVISION:	4.15	0.10	NASDAQ:	2637.31	20.09
VIACOM:	44.90	UNCH	S&P 500:	1242.87	7.64
WWE:	14.21	(0.04)	<b>TECHNOLOGY</b>		
<b>TECHNOLOGY</b>					
ADVANTAGE:	3.11	(0.02)	ALCATEL LUCENT:	3.00	0.01
AMDOCS:	27.10	(0.11)	AMPHENOL:	53.16	0.40
AOL:	24.84	(0.44)	APPLE:	321.25	0.89
ARRIS GROUP:	10.94	0.30			

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

**Eureka!**

I dabble a bit in art and coin collecting and am fond of gambling, so it should come as no surprise that I got sucked into back-to-back-to-back eps of **A&E's** new series "Storage Wars" this week. Now, I'm hooked. The show launched Dec 1 to an avg of 2mIn viewers over 2 eps, all of them likely lured like me to the show's compelling characters (there's one I loath and who I root against) and their mission: bid on and buy abandoned storage lockers in hopes of scoring big with merchandise therein. The gambling aspect stems from bidders not being allowed to enter the units or touch the wares; they have mere minutes to peer in before making a decision to bid or pass. Collectibles such as coins or rare flare guns often turn up as part of the purchase, leaving the lucky buyer to reap healthy profits. Other times it's electronics or sporting goods, sometimes junk. A cool aspect of the show is the inclusion of 4 recurring main characters/bidders engaged in sly competition, and at the end of each show the parties' profits are compared. "People love the idea of a real-life treasure hunt," said A&E svp, non-fiction and alternative programming *Robert Sharenow*. But there's much more to it than that. The show "has one of the most compelling sets of characters I've ever seen in a docu-series," he said. "The objects are interesting, but I think viewers care more about who's winning and losing in a given week." Not surprisingly, there's a similar show on cable, **Spike's** "Auction Wars." I haven't seen it, but I imagine it would pique my interest, too, what with the parallels storage space shows have to those featuring pawn stores, a la **History's** "Pawn Stars" (my fave) and **truTV's** "Hardcore Pawn." The common element is a search for treasure (though less so for Hardcore), an endeavor of which mankind will never tire. Unless work beckons the next day. *CH*

**Worth a Look:** "Bondi Rescue," Wed, 11p, **FUEL TV**. A hub of human calamity, Australia's Bondi Beach is the backdrop as smooth local lifeguards provide funny and insightful commentary while rescuing beach-goers from rip currents, heat waves and hypothermia—all in the same ep. Viewing requirements: a working knowledge of the Celsius scale and a strong stomach for viewing gruesome surfing injuries. (Review by *Bill Miltenberg*) -- "Top Gear," Sun, 10p, **History**. *Tony Hawk* guests as the boys test old GM cars, including a Roadmaster like the one *Chevy Chase* used in "National Lampoon's Family Vacation." Cue "Holiday Road" and *Christie Brinkley*. *SA*

**Notable:** Time for bowling? Already? **ESPN** has 3 Sat, beginning with the New Mexico Bowl at 2p (BYU vs UTEP), ending with the New Orleans Bowl, 9p (Ohio vs Troy) sandwiching the Humanitarian Bowl, 5:30p (Northern IL vs Fresno State). Early adopters can watch *LeBron* visit the place he was supposed to call home, Madison Sq Garden, as **ESPN 3D** carries its 1st NBA telecast Fri, 7p. Yes, it's on ESPN HD, too. -- No less athletic, **Ovation's** "Battle of the Nutcrackers" continues with former ballerina *Sarah Jessica Parker* co-hosting. **Berlin State Opera Ballet** performs its version Sun, 7p. -- **HDNet's** award-winning concert series features British singer *Amy Winehouse* (Sun, 8p ET) *SA*

Basic Cable Rankings (12/06/10-12/12/10)			
Mon-Sun Prime			
1	ESPN	2.8	2778
2	USA	2.6	2562
3	DSNY	2	1974
4	FAM	1.7	1684
5	FOXN	1.6	1591
6	TNT	1.3	1334
6	NAN	1.3	1330
6	TBSC	1.3	1273
9	HIST	1.2	1168
9	HALL	1.2	1061
11	LIFE	1.1	1126
11	SYFY	1.1	1078
11	NFLN	1.1	612
14	A&E	1	1004
15	HGTV	0.9	923
15	TOON	0.9	915
15	TLC	0.9	904
15	FX	0.9	880
15	DISC	0.9	874
20	BRAV	0.8	767
20	AMC	0.8	748
20	TVLD	0.8	737
20	TRU	0.8	717
20	LMN	0.8	626
20	NKJR	0.8	618
26	FOOD	0.7	727
26	SPK	0.7	688
26	MSNB	0.7	682
26	CMDY	0.7	646
30	MTV	0.6	615
30	BET	0.6	580
32	CNN	0.5	498
32	ID	0.5	369
32	NGC	0.5	360
32	HMC	0.5	180
36	APL	0.4	434
36	EN	0.4	433
36	VH1	0.4	426
36	ESP2	0.4	412
36	HLN	0.4	387
36	TRAV	0.4	385
36	OXYG	0.4	294
43	CMT	0.3	287
43	GSN	0.3	250
43	DXD	0.3	241
43	SOAP	0.3	239

\*Nielsen data supplied by ABC/Disney

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