

CableFAX Daily™

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What the Industry Reads First

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Scrooged: FCC Dons Cap, Goes a 'Caroling'

It's off to court cable will go with the **FCC** voting as expected Tues to reinstate a 30% ownership cap for cable operators. But the 3-2 vote didn't come without a lecture from the 2 dissenting Republicans, *Deborah Taylor Tate* and *Robert McDowell*. "This is out-of-date, bad public policy that's not needed in today's market. The court is sure to strike down that cap again," McDowell said, noting how DBS' market share has grown to 30% from 18% since the DC Appeals Court threw out the 30% cap in '01. The cap means that no cable operator (or telco offering video) can own more than 30% of multichannel subs. Feeling festive, McDowell compared the FCC's actions to *Charles Dickens'* "A Christmas Carol," with court rejection of the order playing the part of the Ghost of Christmas Future and the rule itself serving as the Ghost of Christmas Present, full of "ignorance and want." (We won't ask who *Tiny Tim* is...). After getting her feet wet last month by going against FCC chmn *Kevin Martin* and voting against forcing cable ops to slash leased access rates, Taylor Tate did it again, saying cable ops aren't the "gatekeepers" they may have once been. In voting against the 30% cap, she reminded everyone that the DC Appeals court stopped short of making suggestions in '01, but suggested a 60% cap might be permissible. **Comcast**, which serves about 27% of multichannel homes, expressed confidence that federal courts will determine the cap is unconstitutional. "It is also perverse to see the Commission approving huge mergers by the Bell companies while now telling cable companies, who compete toe-to-toe with the Bells to offer consumers a real choice for video, Internet and phone services, that they may not also grow larger and achieve the same efficiencies," said Comcast evp, *David Cohen*. While the cap applies to cable ops and telco's video offerings, it does not apply to DBS (**DirectTV** and **EchoStar** are the largest multichannel providers behind Comcast). Dem *Jonathan Adelstein* suggested that the FCC explore whether the caps be extended to DBS providers. McDowell complained that the cap creates "regulatory dissymmetry" as the number of wireline subs, wireless subs or Websites a company can own aren't limited. Martin defended the decision, saying the cap doesn't apply to other industries because "that's not what Congress instructed us to do." The FCC said the cap is intended in part to help fledgling networks and said it will seek comment on vertical cable ownership rules, which apply to how many channels of its own programming a cable company can carry.

Media Ownership: A half dozen or so protestors shouted "unfair" after the **FCC** voted 3-2 along party lines to relax the newspaper-broadcast cross ownership ban. Security escorted the sign-wielding protestors out of Tues' meeting. Democratic members of Congress, who tried to get the FCC to postpone the vote, quickly reacted. "I will work hard with my colleagues on the appropriations committee to ensure that the FCC's funding reflects Chairman [Kevin] Martin's decision to go against the commission's own charter and limit media diversity rather than foster it," said Sen *John Kerry* (D-MA), in threatening to freeze FCC funding. The new rules represent yet another court challenge waiting to happen. Basically, the order would allow some newspaper-broadcast combos, particularly if they meet certain criteria in the top 20 markets.

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Unacceptable RSVPs: Sen John Kerry (D-MA) expressed through 3 identical Tues letters disappointment that a proposed meeting between the NFL, Comcast and Time Warner Cable has failed to occur—leaving a wide swath of New England likely shut out from viewing the Dec 29 Patriots game on NFL Net. While maintaining “no intention of interfering in longstanding negotiations between commercial interests” and urging the 3 parties to strike an accord “beyond the halls of Congress,” Kerry called out the league while leaving the communication door ajar. “I sincerely hope that the NFL realizes the value in providing the broadest possible access to a game of this magnitude, and that proprietary interests can be set aside for one day in the interest of football fans everywhere,” wrote Kerry to NFL commish Roger Goodell, Comcast evp David Cohen and Time Warner Cable boss Glenn Britt. Reacting to Kerry, all 3 parties expressed a willingness to meet but also noted their respective stances have yet to change. Let’s go Dolphins!

Rip Cord: Outgoing Outdoor Channel Holdings evp/CFO William Owen, who resigned Fri but will continue providing services to the company for 12 months, is slated to receive a \$152K lump-sum payment on Jan 9; reimbursement of health care payments for a period of up to 12 months or until he secures other employment, whichever occurs first; and reimbursement of up to \$10K for attorney fees. A separate consulting agreement provides Owen with a \$48K lump-sum payment on or before Mar 15 in exchange for his availability up to 4 days/month.

Competition: Verizon Wireless is offering live, full-length mobile coverage of 24 college bowl games, kicking off Thurs with ESPN Mobile TV’s telecast of the Poinsettia Bowl.

In the Courts: Fox News has sued EchoStar for about \$50mln, claiming the DBS operator breached a '98 contract that required the channel to be offered on its most widely distributed package. The net said it was moved to the “America’s Top 200” package around Jan. DISH had no comment on the litigation.

Dickie V Off TV: ESPN’s patently peerless college basketball analyst Dick Vitale will miss his 1st games in 29 years following successful surgery to treat ulcers on his left vocal chord. Boston laryngologist Dr Steven Zeitels—recently featured in Nat Geo’s “Incredible Human Machine”—did the procedure, which sidelines Vitale until Feb. Get well soon, Dick.

Happy Old Year: TV One grew its sub base by 25% this year, adding 8.4mln new households. Launches on Time Warner Cable in Hudson Valley, NY; on Charter in Fort Worth and Birmingham and Montgomery, AL; and on Mediacom in Albany, GA, raise overall distribution to 42.2mln. The net reaches all top 50 African American markets (as ranked by Nielsen) and 69 of the top 75. TVOneonline.com got 572K video plays in Oct, compared to just 26K a year earlier.

Ratings: After taking a back seat to football-infused nets and the ad-free Mouse for much of the Q, USA (2.3/2.22mln) wrestled away the prime ratings throne with a tag team. The net’s 3-hour telecast commemorating the 15th anniversary of “WWE Monday Night RAW” received a solid 4.1/3.93mln average. The 9-10pm slot was the top performer, pinning a 4.5/4.36. Meanwhile, movies drove the next 3 nets into their respective positions. Weekly runner-up Disney (2.0/1.89mln) was powered by “The Polar Express,” TNT (1.9/1.83mln) lorded over the 3rd spot through magic from “Lord of the Rings: Return of the King,” and ABC Family (1.8/1.69mln) hit the top 5 for the 2nd straight week, receiving holiday cheer from original movie “Snowglobe.” A 3-way logjam in 5th comprised TBS (1.7/1.69mln), ESPN (1.7/1.60mln) and Lifetime (1.7/1.60mln). -- NFL Net continued last week the streak of daily cable dominance by its live games, albeit by a comparatively slim margin. The net’s Sat Bengals-49ers (3.6/1.57mln) tilt featured 2 clunking teams, leading

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to relatively poor viewership and a tighter-than-usual contest with **Nickelodeon's** "SpongeBob SquarePants" (3.1/3.01mln) for the day's crown. Even so, and as they say in football, all that matters is the "W."

People: **Sprint Nextel's** board named former **Embarq** and **AT&T Wireless** exec **Daniel Hesse** CEO, effective immediately. No word on **Pivot**, but Hesse said he'll "review every aspect of our strategy." -- **Time Warner Cable** upped **William Osbourn** to svp/controller. -- **Anil Jagtiani** resigned from **Crown's** board on Wed. **Hallmark's** **Steve Doyal** and **Tom Wright** were elected to the board. -- **Comcast SportsNet New England** will welcome next month **Bill Bridgen** as evp/GM; **Ted Griggs** was promoted to vp/GM at sister net **FSN Bay Area**.

Business/Finance: **Discovery Comm** closed its purchase of **HowStuffWorks**, which remains the largest shareholder of **HSW Intl**. As part of the deal, the latter company named **Discovery** pres, digital media, emerging networks and business development **Billy Campbell** a board member. -- **XFone** inked agreements for approx \$33.4mln in non-secured debt and equity to finance its acquisition of **NTS Comm**, a triple-play provider in TX. -- **Comcast Interactive Capital** and others participated in a new \$17.5mln funding round for **BelAir Networks**, a provider of mobile wireless broadband mesh network solutions.

CableFAX Daily Stockwatch

Company	12/18 Close	1-Day Ch	Company	12/18 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
BRITISH SKY:	48.34	0.31	AMPHENOL:	45.51	1.03
DIRECTV:	23.41	0.08	APPLE:	182.98	(1.42)
DISNEY:	33.02	0.03	ARRIS GROUP:	9.90	(0.09)
ECHOSTAR:	37.01	0.24	AVID TECH:	25.43	(0.03)
GE:	36.80	0.32	BIGBAND:	5.43	0.02
HEARST-ARGYLE:	21.60	(0.08)	BLNDER TONGUE:	1.68	(0.02)
ION MEDIA:	1.28	(0.01)	BROADCOM:	25.96	(0.63)
NEWS CORP:	21.01	0.19	CISCO:	28.15	0.20
TRIBUNE:	33.31	1.02	COMMSCOPE:	46.06	0.61
MSOS					
CABLEVISION:	24.04	(0.23)	CONCURRENT:	0.80	(0.01)
CHARTER:	1.23	0.03	CONVERGYS:	16.61	(0.21)
COMCAST:	18.08	(0.02)	CSG SYSTEMS:	15.55	(0.38)
COMCAST SPCL:	17.92	(0.07)	GEMSTAR TVG:	4.70	0.14
GCI:	8.50	0.27	GOOGLE:	673.35	4.12
KNOLOGY:	11.32	0.20	HARMONIC:	9.98	0.29
LIBERTY CAPITAL:	114.05	(0.5)	JDSU:	13.46	(0.02)
LIBERTY GLOBAL:	39.84	(0.06)	LEVEL 3:	3.18	0.18
LIBERTY INTERACTIVE:	20.41	(0.02)	MICROSOFT:	34.74	0.35
MEDIACOM:	4.96	0.06	MOTOROLA:	16.03	0.13
NTL:	28.22	0.00	NDS:	59.19	0.71
ROGERS COMM:	42.97	0.00	NORTEL:	15.62	(0.07)
SHAW COMM:	24.15	0.15	OPENTV:	1.14	0.11
TIME WARNER CABLE:	25.76	(0.09)	PHILIPS:	43.20	0.88
WASH POST:	769.00	10.95	RENTRAK:	14.50	(0.1)
PROGRAMMING					
CBS:	26.07	(0.07)	SEACHANGE:	7.49	0.13
CROWN:	5.92	0.14	SONY:	54.44	0.65
DISCOVERY:	25.58	0.32	SPRINT NEXTEL:	13.76	(0.15)
EW SCRIPPS:	43.51	0.56	THOMAS & BETTS:	48.95	(0.83)
GRUPO TELEVISA:	24.23	0.43	TIVO:	8.35	0.17
INTERACTIVE CORP:	26.77	0.13	TOLLGRADE:	7.90	0.05
LODGENET:	18.26	(0.09)	UNIVERSAL ELEC:	36.61	2.51
NEW FRONTIER:	5.20	(0.05)	VONAGE:	2.00	(0.01)
OUTDOOR:	5.98	0.43	VYYO:	3.57	(0.02)
PLAYBOY:	9.19	0.22	WEBB SYS:	0.04	(0.01)
TIME WARNER:	16.65	0.15	YAHOO:	23.02	(0.02)
UNIVISION:	36.23	0.00	TELCOS		
VALUEVISION:	6.60	0.24	AT&T:	40.60	0.10
VIACOM:	43.07	0.79	QWEST:	6.96	0.24
WWE:	14.74	0.79	VERIZON:	43.81	0.71
TECHNOLOGY					
3COM:	4.40	0.11	MARKET INDICES		
ADC:	17.72	(0.04)	DOW:	13232.47	65.27
ADVANTAGE:	5.48	(0.28)	NASDAQ:	2596.03	21.57
ALCATEL LUCENT:	7.34	0.03			
AMDOCS:	32.99	(0.99)			

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