

CableFAX Daily™

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What the Industry Reads First

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Rock the Vote: FCC Approves Net Neutrality Regulations, Debate Continues

Although the debates that led to the FCC's final net neutrality rules were extensive and passionate, the Commission's adoption of those rules Tues appears far from providing finality. FCC chmn *Julius Genachowski* is the only 1 of 5 Commission leaders who completely supports the rules—for an overview, check www.fcc.gov—and commissioners *Meredith Atwell Baker* and *Robert McDowell*, in dissenting, reiterated the beliefs of many Republican legislators that the rules won't pass muster in expected litigious retaliation. "This marks one of the darkest days in recent FCC history," said McDowell. "The FCC has started a collision course with the legislative branch... the courts will easily sink" the order. "The Commission will return to court with the same basic infirmities," added Atwell Baker in reference to the FCC's perceived lack of authority to regulate the Internet without Congressional consent—a view the D.C. Circuit Court basically asserted in its reversal of the FCC's order barring **Comcast** from certain traffic management practices. Already, Sen *Kay Bailey Hutchison* (R-TX) is preparing to introduce a resolution of disapproval in an effort to halt the new rules. "This vote is an unprecedented power-grab by the unelected members of the Federal Communications Commission, spearheaded by Chairman Genachowski," she said. Commissioners *Mignon Clyburn*, who assented "in part," and *Michael Copps* said they would have preferred more stringent rules, chiefly as an outright ban on pay-for-priority arrangements instead of allowing Internet service providers to prove in disputes that such arrangements aren't harmful to consumers, and equality in regulations covering fixed and mobile access services. For fixed, content blocking rules cover any lawful content, apps, etc, but for mobile they apply only to content, apps, etc that compete with Internet providers' telephony services. Still, "in the end, I believe we made progress," said Copps. Said Genachowski: "Over the course of this proceeding we have heard from so many entrepreneurs, engineers, venture capitalists and others working daily to maintain US leadership in innovation. Their message has been clear: the next decade of innovation in this sector is at risk without sensible rules of the road... Our action will strengthen the Internet job-creation engine. This framework will advance our goal of having America's broadband networks [become] the freest and fastest in the world." The final order was not publicly released by presstime.

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and a special thank you to our loyal readers!

Here's to a successful 2011

Sincerely,

Diane Schwartz

Debbie Vaden

Scott Armstrong

Milo

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Chad Heiges

Joann M. Gale

Amy Jefferies

Kate Schaeffer

Amy Abby

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Peanut Gallery: Outside reaction to the **FCC's** adoption of net neutrality rules adds additional exhibits to the divisiveness and passion inherent to the issue. "While, like apparently everyone else in America, this would not be the Order we would have written, we do appreciate the attempt to provide certainty and to balance the openness of the Internet with the preservation of an incredibly dynamic and successful marketplace," said **NCTA** pres/CEO *Kyle McSparrow*, noting how the adopted rules will likely "avoid the extreme and counterproductive demands for rate regulation [and] unbundling of networks." While the MSO continues to believe that Internet regulation is unwarranted, **Time Warner Cable** said the FCC's new rules "reflect a workable balance between protecting consumers' interests and preserving incentives for investment and innovation by broadband Internet service providers." **ACA** "appreciates that under Chairman Genachowski's leadership, the FCC... has advanced a template that appears to give providers appropriate pricing and network management flexibility under a light touch framework that attempts to balance the interests of consumers, innovators and access providers," said **ACA** pres/CEO *Matt Polka*. House Commerce chmn *Henry Waxman* (D-CA) said the "framework constitutes a floor, not a ceiling, on basic protections," and if the "protections prove insufficient and consumers and innovation suffer, they will need to be strengthened, and I will vigorously support that effort." Senate Commerce chmn *Jay Rockefeller* (D-WV) noted "real reservations" about treating wireless and wired broadband differently, but believes "today's decision is a meaningful step forward." "In some areas of the Order, the FCC gets high letter grades, but in others, the agency gets an incomplete," said Rep *Ed Markey* (D-MA), citing disparate wired/wireless treatment and the lack of an explicit ban on pay-for-priority arrangements as shortcomings. **DISH** pres/CEO *Charlie Ergen* lauded the FCC's action. "The new rules give companies... the framework to invest capital and manpower in Internet-related technologies without fear that our investment will be undermined by carriers' discriminatory practices," he said, while nonetheless lamenting that the FCC didn't expressly prohibit wireless discrimination. **Verizon** evp, public affairs, policy and comm *Tom Tauke* believes the FCC's order adoption "without solid statutory underpinnings will yield continued uncertainty for industry, innovators, and investors. In the long run, that is harmful to consumers and the nation." And from the consumer interest arena, **Public Knowledge** pres *Gigi Sohn* said the rules "will be subject to manipulation by telephone and cable companies." **Free Press**, meanwhile, is "deeply disappointed that [chmn Genachowski] chose to ignore the overwhelming public support for real Net Neutrality, instead moving forward with industry-written rules that will for the first time in Internet history allow discrimination online." And while some will view the FCC's order as a move toward Internet regulation, said Sen *Mark Warner* (D-VA), "the truth is that we're talking about basic Internet access rules, not government control over content. Absent FCC action or a much-needed update of our telecom laws, there's nothing to protect Internet users from discriminatory network management practices."

Competition: **Verizon** launched a FiOS Internet product offering speeds up to 150Mbps to small businesses in 12 states and D.C.

Advertising: Believe it not, TV viewers do watch commercials on their DVRs, according to **Nielsen**. Among DVR homes, playback lifts commercial ratings by 44% among 18-49s after 3 days, and among all 18-49s, DVR playback adds 16% to commercial ratings after 3 days. -- **BIA/Kelsey** expects total local ad spend to total \$128.9bln this year, down slightly compared to last year and 18% versus '08, before accelerating to \$144.9bln in '14.

VOD: **Comcast** doubled the number of day-and-date on demand movies it offered in '10 to more than 200, and said its VOD service reached a total of 18bln views this year since launching in '03.

Programming: **FX's** breakout original series "Justified" returns Feb 9. -- **Military Channel** series "Greatest Tank Battles" (Jan 5) uses CGI animation to recount the step-by-step maneuvers used in the most colossal combats from the last century. -- **HBO** will air special "The Pee-Wee Herman Show on Broadway" next year.

People: **Turner Sports Ad Sales** tapped *Will Blair* as svp, sponsorships and sales.

Business/Finance: **Wells Fargo Securities' Marci Ryvicker** believes the cable/satellite industry will be "consumed by the OTT debate" in '11, leading to great attention on content windowing and TV Everywhere initiatives. Her top pick for the year is **Comcast**. Per broadcast, '11 should mark a "return to fundamentals," with a particular focus on local and FCF. Her top pick is **CBS**. -- **Miller Tabak's David Joyce** reiterated his 'buy' rating on **Comcast**

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shares and upped the price target to \$27, saying the FCC's approval of net neutrality regulations "indicate[s] potentially that deal conditions on the Comcast/NBC Universal JV acquisition may likewise be palatable enough for the economics still to make sense." -- Operator of **MGM HD** and a partner in **Epix**, MGM has emerged from reorg proceedings with \$500mln in exit financing to fund operations including production of a new slate of films and TV series. MGM's secured lenders exchanged approx \$5bln of debt for most of the company's equity. -- According to the *WSJ*, **Hulu** scrapped plans for a \$200-300mln IPO and instead will focus on alternate funding options and new subscription models for expansion. The Website's backers include **Disney**, **NBC** and **News Corp**.

Editor's Note: The holiday season may be hectic, but it's always smart to think ahead into the new year. So make sure to sign up early for our Jan 19 Webinar, "Capitalizing on Authentication and TV Everywhere," which will provide an update on one of the hottest topics of '11 and what cable is doing to plan for an authenticated world. Register at http://www.cablefax.com/cfp/webinars/2011_jan19.html. -- Don't forget that the deadline to submit nominations for the **Faxies** awards is Jan 21. Enter here: <http://www.cablefax.com/cfp/awards/cablefaxies2011/>.

CableFAX Daily Stockwatch

Company	12/21 Close	1-Day Ch	Company	12/21 Close	1-Day Ch
BROADCASTERS/DBS/MMDS			AVID TECH: 18.76 0.49		
DIRECTV:	39.36	(0.43)	BIGBAND:	2.59	UNCH
DISH:	19.06	0.22	BLNDER TONGUE:	2.05	0.02
DISNEY:	37.33	0.27	BROADCOM:	44.10	0.29
GE:	17.90	0.20	CISCO:	19.53	(0.09)
NEWS CORP:	16.20	0.09	CLEARWIRE:	5.10	0.10
MSOS			COMMSCOPE:	31.23	0.01
CABLEVISION:	34.63	0.34	CONCURRENT:	4.93	0.08
CHARTER:	38.22	0.18	CONVERGYS:	13.28	0.11
COMCAST:	22.25	0.32	CSG SYSTEMS:	19.07	0.24
COMCAST SPCL:	20.91	0.35	ECHOSTAR:	23.28	0.73
GCI:	13.14	(0.04)	GOOGLE:	603.07	8.01
KNOWLOGY:	15.56	UNCH	HARMONIC:	8.62	(0.1)
LIBERTY CAPITAL:	59.41	0.85	INTEL:	21.10	(0.13)
LIBERTY GLOBAL:	34.54	(0.92)	JDSU:	14.63	0.22
LIBERTY INT:	16.00	0.19	LEVEL 3:	0.96	(0.01)
MEDIACOM:	8.45	UNCH	MICROSOFT:	28.07	0.26
SHAW COMM:	20.83	0.24	MOTOROLA:	9.00	0.12
TIME WARNER CABLE:	65.83	0.57	RENTRAK:	29.95	0.23
VIRGIN MEDIA:	26.28	0.08	SEACHANGE:	8.95	0.24
WASH POST:	421.81	(10.25)	SONY:	36.24	1.05
PROGRAMMING			SPRINT NEXTEL:	4.31	0.04
CBS:	19.27	0.35	THOMAS & BETTS:	48.15	(0.41)
CROWN:	2.70	UNCH	TIVO:	8.73	0.15
DISCOVERY:	42.71	0.29	TOLLGRADE:	9.00	0.15
GRUPO TELEVISA:	26.26	0.65	UNIVERSAL ELEC:	28.81	0.46
HSN:	30.87	0.42	VONAGE:	2.45	0.02
INTERACTIVE CORP:	30.19	0.45	YAHOO:	16.60	0.32
LIBERTY:	38.98	0.18	TELCOS		
LIBERTY STARZ:	66.71	0.17	AT&T:	29.07	(0.06)
LIONSGATE:	6.47	(0.25)	QWEST:	7.71	0.09
LODGENET:	3.98	0.11	VERIZON:	34.94	0.20
NEW FRONTIER:	1.75	UNCH	MARKET INDICES		
OUTDOOR:	7.01	(0.1)	DOW:	11533.16	55.03
PLAYBOY:	5.09	(0.04)	NASDAQ:	2667.61	18.05
SCRIPPS INT:	52.56	0.50	S&P 500:	1254.60	7.52
TIME WARNER:	31.84	0.19	TECHNOLOGY		
VALUEVISION:	5.03	0.10	ADVANTAGE:	3.19	0.04
VIACOM:	45.20	0.18	ALCATEL LUCENT:	2.94	(0.05)
WWE:	14.47	0.17	AMDOCS:	26.68	0.21
TECHNOLOGY			AMPHENOL:	52.76	0.07
ADDVANTAGE:	3.19	0.04	AOL:	23.99	0.03
ALCATEL LUCENT:	2.94	(0.05)	APPLE:	324.20	2.00
AMDOCS:	26.68	0.21	ARRIS GROUP:	11.08	0.06
AMPHENOL:	52.76	0.07			
AOL:	23.99	0.03			
APPLE:	324.20	2.00			
ARRIS GROUP:	11.08	0.06			

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