

CableFAX Daily™

Thursday — December 23, 2010

What the Industry Reads First

Volume 21 / No. 247

Next!: Following Net Neutrality Action, Comcast-NBCU to Fore

We no doubt haven't heard the last of the FCC's controversial net neutrality order, but with its approval many industry eyes now turn to **Comcast-NBCU**—which it turns out won't close by year-end as originally expected. Responding to a *Wed NY Times* report citing an internal memo, Comcast said "because of the lead time required to prepare for a close, it now appears that we will not be able to close the transaction with **GE** relating to NBCU by year-end. We have notified our transition teams that there will not be a December 31 closing." Comcast's now looking for closure early next year. Sources said the FCC is preparing to circulate an item as early as Thurs, with the deal expected to go through next month. Meanwhile, Comcast met with FCC staff twice this week to discuss potential conditions the FCC has under consideration with respect to the distribution of online video. If the Commission is trying to craft a condition under which NBCU must act in the online video marketplace as it has pre-deal, Comcast noted, "any benchmarks should focus on the behavior of similarly situated, non-vertically integrated peers." NBCU's current practice, continued Comcast, "is to ensure that, when its content appears on an aggregator's Website, other comparable, high-value content is also on that Website, and that non-NBCU programming makes up a majority of the aggregator's programming." **Wells Fargo Securities' Marci Ryvicker** believes some online video distribution restrictions will be imposed, "but given the FCC's desire to promote 'innovation' as described in accordance with the net neutrality proposal passed... we do not believe that Comcast will be 'handcuffed' by rules that will dis-incentivize the company from exploring different online distribution methods." **ACA**, meanwhile, has asked the FCC to impose several conditions on Comcast-NBCU, including barring the combined entity from requiring any pay TV provider with 125K local video subs or fewer to pay a fee for an NBC station or RSN that is 5% greater than the lowest fee paid by any other local distributor; required to annually certify to the FCC that all eligible retrans and RSN contracts comply with the 5% rule; and held to a new lower-priced commercial arbitration system to settle disputes that includes the right to program carriage until the matter is resolved—and is different from baseball-style arbitration that "has proven to be of no value for smaller MVPDs... due to the higher fixed costs of the process generally being in excess of the potential benefits."

Retrans: This time around for **Mediacom** and **Sinclair**, retrans negotiations were amicable—or at least didn't involve public wrangling. The pair quietly reached a 2-yr deal Wed covering the MSO's carriage of 22 TV stations

WOMEN ADD VALUE TO THEIR **COMPANIES**

WICT ADDS VALUE TO **WOMEN**

When you support **WICT**, you are creating value through the largest and strongest organization representing women in the cable media. **Is that valuable to you?**

Join **WICT**, renew your membership or learn more about sponsorship opportunities today at www.wict.org



Women in Cable Telecommunications™

CABLEFAX DAILY (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefaxdaily.com ● fax: 301.738.8453 ● Editor-in-Chief: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Exec Editor: Michael Grebb, 301.354.1790, mgrebb@accessintel.com ● Senior Online Editor: Chad Heiges, 301.354.1828, cheiges@accessintel.com ● Asst VP, Ed Director: Seth Arenstein, 301/354-1782, sarenstein@accessintel.com ● Publisher: Debbie Vodenos, 301.354-1695, dvodenos@accessintel.com ● Assoc Publisher: Amy Abbey, 301.354.1629, aabbey@accessintel.com ● Marketing Dir: Carol Brault, 301.354.1763, cbrault@accessintel.com ● Prod: Joann Fato, 301.354.1681, cdaily@accessintel.com ● Diane Schwartz/VP and Group Publisher ● Subs/Client Services: 301.354.2101, fax 301.309.3847 ● Group Subs: Carol Brault, 301.354.1763, cbrault@accessintel.com

owned and/or operated by Sinclair in 16 markets. Last Dec, the pair sought mediation in an effort to settle a dispute and a short-term deal was reached in Jan. Sinclair and **Time Warner Cable**, however, have traded snipes recently as they attempt to forge a deal before the Dec 31 deadline.

At the Portals: FCC commissioners reversed Wed the **Media Bureau's** previous upholding of an arbiter's '08 decision that **Time Warner Cable** unlawfully discriminated against **MASN** by refusing carriage of the net in NC. "We find that TWC has provided legitimate and non-discriminatory reasons for its decision to decline to carry" MASN, said the commissioners, namely the limited demand for MASN in NC, the cost of carrying the net and the amount of channel capacity demanded by the net. TWC understands that some of its NC subs would like to receive MASN, and is therefore "willing to carry MASN on our sports tier, and we hope to resume negotiations with MASN in the near future." *Commissioner Capps* was the lone dissenter, saying he found "no compelling evidence or rationale" for a reversal.

Competition: **AT&T U-verse TV** will provide an exclusive 2-day (Fri-Sat) free preview of **Starz** and **Encore** in SD and HD.

Carriage: **DirecTV** has made it clear it has no problem dropping nets it deems irrelevant without acceptable carriage terms, noting its dismissal of **Comcast's G4** as an example. Late next week, **Golf Channel** may join its sibling net on the DBS op's sidelines as the parties have yet to renew an agreement that expires Dec 31. DirecTV has posted a message to subs on its Website saying talks with Golf continue and that it has "no plans to take the channel down at this time." *SBJ's John Ourand*, though, said the pair remains far apart in pricing terms. DirecTV dropped **Comcast's Versus** earlier this year because of a dispute before re-adding the net following a resolution.

Apps for TV: **Verizon** introduced its **FiOS Mobile** application for **iPad** Tues, enabling customers to manage their DVRs and browse FiOS video-on-demand offers remotely, plus turn their iPad into a remote control for their HD set-top boxes. Although Verizon already has apps that provide remote control capabilities to more than 40 mobile devices, vp, product mgmt *Eric Bruno* said "we're giving customers more control over their TV entertainment whenever and wherever they want it. Extending our FiOS Mobile app to customers using iPads gives more subscribers more ways to conveniently manage their FiOS TV services." What's missing from the app, of course, is the ability to stream live programming, recorded DVR content or on demand content directly to the iPad. Although apps aren't major milestones for TV Everywhere just yet, they may change the importance of channel positioning. **Comcast's XfinityTV** iPad/iPhone app, first seen at the Web 2.0 Conference in San Francisco in mid-November, features similar functionality to Verizon's app, allowing users to browse listings and the on-demand library through a rich interface with colorful poster art, change the channel in real time and program their DVRs remotely. But it also allows users to filter content through keyword searches such as movies, kids, sports, HD content, or by A-Z searches in TV listings and on demand. Browsing content by genre rather than scrolling through a listing may eventually render channel positioning irrelevant and could help users discover additional programming based on their viewing preferences instead of visibility. "This Xfinity TV app is part of a much larger effort to reinvent the way consumers interact with their televisions by transforming the way they search, navigate, discover and share entertainment," said Comcast Cable pres *Neil Smit*. Although these apps are great additions to the TV-watching experience, users still can't stream live TV or recorded DVR content to the iPad anywhere, anytime yet. **DirecTV**, whose NFL Sunday Ticket app allows subscribing customers to watch every Sunday NFL game on their mobile device, is looking to add to its suite of mobile products. According to **BTIG Research**, DirecTV is planning to launch a remote viewing application in late 2011 that enables subscribers to download content stored on their DVR to smartphones and tablets and take the content with them wherever they go.

It's On: A federal judge may have issued a temporary restraining order against **FilmOn** last month, preventing it from streaming television stations or networks that haven't given the site permission, but the company's still swinging. Through its London-based law firm, FilmOn issued a letter to **CBS** decrying the broadcaster's alleged recent statement through **Reuters** saying "FilmOn.com is the latest in a short line of companies that has robbed our broadcast signals and distributed them illegally for their own commercial gain." Claiming libel, the firm's requesting that CBS, within 14 days, pay FilmOn compensation "for the damage calculated to be caused and presumed to flow from publication and foreseeable republications of the defamatory statement," remunerate for legal costs and issue an apology.

BUSINESS & FINANCE

Technology: Apple projects sales of Apple TV will exceed 1mln units later this week. The tech allows for the streaming of content from **Netflix, YouTube, Flickr** and **iTunes**, users of which are now renting and purchasing more than 400K TV eps and more than 150K movies/day.

Research: Not surprisingly, cable was shut out of **Nielsen's** list of the top 10 TV programs of the year (single telecast), but **ESPN's MNF** did rank 8th among regularly-scheduled programs with a 4.9 total persons rating. **Fox's "American Idol"** led the way with a 7.9. In the Most Engaging category, cable earned 3 spots: 3rd by **Lifetime's "Army Wives,"** 5th by **FX's "Justified"** and 8th by **USA's "Covert Affairs."**

Programming: Investigation Discovery will look to continue its monumental '10 ratings momentum next year in part with "Stolen Voices, Buried Secrets" (Jan 10), offering unique perspectives of tragic victims through fictionalized, first-person narration based on the facts of each case.

Business/Finance: Motorola Mobility acquired for an undisclosed amount **Zectra**, a start-up with synchronization and streaming tech for on demand digital media consumption. Moto will integrate Zectra's tech across its devices to provide consumers with real-time access to their content.

CableFAX Daily Stockwatch

Company	12/22 Close	1-Day Ch	Company	12/22 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	39.66	0.30	AVID TECH:	18.03	(0.73)
DISH:	19.25	0.19	BIGBAND:	2.62	0.03
DISNEY:	37.95	0.62	BLNDER TONGUE:	2.03	(0.02)
GE:	18.06	0.30	BROADCOM:	43.92	(0.18)
NEWS CORP:	16.62	0.42	CISCO:	19.56	0.03
MSOS					
CABLEVISION:	34.24	(0.39)	CLEARWIRE:	5.19	0.09
CHARTER:	38.50	0.28	COMMScope:	31.23	UNCH
COMCAST:	22.20	(0.05)	CONCURRENT:	5.07	0.14
COMCAST SPCL:	20.83	(0.08)	CONVERGYS:	13.36	0.08
GCI:	13.18	0.04	CSG SYSTEMS:	18.99	(0.08)
KNOWLOGY:	15.45	(0.11)	ECHOSTAR:	23.63	0.35
LIBERTY CAPITAL:	62.24	2.83	GOOGLE:	605.49	2.42
LIBERTY GLOBAL:	35.06	0.52	HARMONIC:	8.61	(0.01)
LIBERTY INT:	15.99	(0.01)	INTEL:	20.89	(0.21)
MEDIACOM:	8.47	0.02	JDSU:	14.36	(0.27)
SHAW COMM:	20.96	0.13	LEVEL 3:	0.98	0.02
TIME WARNER CABLE:	65.51	(0.32)	MICROSOFT:	28.19	0.12
VIRGIN MEDIA:	26.27	(0.01)	MOTOROLA:	9.09	0.09
WASH POST:	426.50	4.69	RENTRAK:	29.81	(0.14)
PROGRAMMING					
CBS:	19.59	0.32	SEACHANGE:	8.92	(0.03)
CROWN:	2.66	(0.04)	SONY:	35.48	(0.76)
DISCOVERY:	42.78	0.07	SPRINT NEXTEL:	4.21	(0.1)
GRUPO TELEVISA:	26.51	0.25	THOMAS & BETTS:	48.81	0.66
HSN:	30.94	0.07	TIVO:	8.70	(0.03)
INTERACTIVE CORP:	29.97	(0.22)	TOLLGRADE:	9.01	0.01
LIBERTY:	39.20	0.22	UNIVERSAL ELEC:	28.51	(0.3)
LIBERTY STARZ:	66.70	(0.01)	VONAGE:	2.47	0.02
LIONSGATE:	6.48	0.01	YAHOO:	16.63	0.03
LODGENET:	3.94	(0.04)	TELCOS		
NEW FRONTIER:	1.76	0.01	AT&T:	29.13	0.06
OUTDOOR:	6.94	(0.07)	QWEST:	7.68	(0.03)
PLAYBOY:	5.17	0.08	VERIZON:	35.18	0.24
SCRIPPS INT:	52.80	0.24	MARKET INDICES		
TIME WARNER:	32.27	0.43	DOW:	11559.49	26.33
VALUEVISION:	5.02	0.02	NASDAQ:	2671.48	3.87
VIACOM:	46.09	0.89	S&P 500:	1258.84	4.24
WWE:	14.49	0.02	TECHNOLOGY		
TECHNOLOGY					
ADVANTAGE:	3.20	0.01	ALCATEL LUCENT:	2.88	(0.06)
AMDOCS:	26.91	0.23	AMPHENOL:	53.00	0.24
AOL:	24.58	0.59	APPLE:	325.16	0.95
ARRIS GROUP:	11.06	(0.02)			

The CableFAXIES awards

DEADLINE: JANUARY 21, 2011

ENTER AT: www.CableFaxiesAwards.com

Entry Questions: Mary-Lou French at 301-354-1851; mfrench@accessintel.com

Sponsorship Opportunities:

Debbie Vodenos, Publisher at 301-354-1695; dvodenos@accessintel.com
 Amy Abbey, Associate Publisher at 301-354-1629; aabbey@accessintel.com

The CableFaxies Awards salute the year's most outstanding communications initiatives and programs in the highly competitive and dynamic Cable arena. The coveted awards set the industry benchmark for excellence across all areas of PR and marketing.

The Winners of the CableFaxies Awards are from networks, operators, PR firms, vendors, corporations, agencies and other entertainment companies who took chances, made tremendous strides and understand the power of PR and marketing in the cable industry. The winners and honorable mentions will be saluted during an awards event in April 2011 in New York City.

Think about that for a minute...

Now What?

By Steve Effros

OK, so the FCC has finally voted to impose “net neutrality” regulations on ISPs. Now what?

All of the “normal” things that happen following a significant regulatory ruling by a Federal agency are already in process: the folks who wanted more regulations are complaining that the Commission didn’t do enough and are gearing up the “consumer” fundraising to keep themselves operating in high dudgeon about something.



The folks opposed to the new regulatory structure are trying to figure out what they want to do; there are several options. Since the decision is on very shaky legal footing—and that would have been the case whether the Commission

decided, as it did, to use “Title I” authority or, alternatively, “Title II” authority—the new rules could be challenged in court. That’s likely to happen at some point no matter what.

There is also a political path, since a clear majority in Congress, both Republicans and Democrats, told the Commission they didn’t think it should claim authority over the Internet in the first place. Various “riders” to bills could stop the Commission from either enforcing or funding the implementation of the rules.

Since the detailed language surrounding the rules themselves has yet to be fully released, it will be some time before there is any real indication of how “good” or “bad” the implementation of them will be. Of course, that’s the case no matter what, until specific cases come before the Commission for decision. These rules, as the Chairman has defined them, are “high level.” In other words, they are essentially broad guidelines. The details will be filled in when cases start being decided.

Hence, of course, just in time for Christmas, the lawyers are

gleeful. There is little doubt that there will be plenty of legal work to do in the next few years as all this continues to be sorted out. So if you think the battles over “net neutrality” are finally over, and we can start dealing with more pressing issues (after all, everyone agrees that there is nothing really wrong with the development of the Internet now... all this stuff is being done to “preserve” what was already created without any government intrusion)... think again!

Net neutrality fights are going to be the norm from now on. Note that despite all the soaring rhetoric about having to “protect” the Internet, those who were the strongest advocates of even more regulation never acknowledged that these rules only apply to ISPs, not the “Internet.” It’s not like the old “telephone monopoly” no matter how many times a Commissioner equates the two. The ISP is only the last link of a vastly complex chain of infrastructures and “Edge” users. None of the other parts of the chain were regulated, so the idea that the Commission has “saved” anything is silly. It has just put constraints on one end of the chain, the rest of the chain can do all the “bad” things ascribed to the “last link,” and the FCC hasn’t done anything about that, nor can it.

Will Akamai be declared illegal because it already sells a “fast lane” for Internet delivery to the “big” companies, something one of the Commissioners said should be prohibited in order to “protect the Internet”? Is the Amazon Kindle model of a closed Internet-like data delivery service going to be regulated, or prohibited? Is the Commission going to jump into the very deep water of peering agreements?

The list of questions goes on and on. This isn’t the end of the issue, it’s the beginning.

Steve

T:202-630-2099
steve@effros.com

CableFAX Webinars

Capitalizing on Authentication and TV Everywhere

January 19, 2011 ■ 1:30-3:00 EST

Register Today at www.cablefax.com/webinars

The authentication and TV Everywhere universe has moved out of the concept/beta stage and into reality. But what does this mean for cable operators and their programming partners? Join *CableFAX* for this webinar on Jan. 19.

You will learn:

- Where authentication stands right now.
- How operators and programmers are working together on the business rules and technology.
- Insight on how consumers are using authenticated content in these early stages.
- Plus much more!