

CableFAX Daily™

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What the Industry Reads First

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Wheeler's View: Retrans Reform, JSAs and the Money Quote

A change may finally be coming to retrans consent rules, with **FCC** chmn *Tom Wheeler* circulating a report and order to be voted on at Mar's open meeting that would prohibit 2 or more separately owned top 4 broadcast stations in the same market from jointly negotiating retrans. But that's not the only reason retrans reform supporters were slapping each other on the back Thurs. Wheeler's blog on the subject offers some real evidence that he might be open to further changes. "The cost of these 'retransmission consent agreements' has skyrocketed from \$28mln in 2005 to \$2.4bln in 2012, a nearly 8,600 percent increase in 7 years," he wrote. Non-top 4 stations aren't off the hook, with the order proposing that they have to rebut the presumption that such joint negotiations violate the public interest. Oh, and there's more... The order includes a FNPRM seeking comment on whether to eliminate the FCC's network non-duplication and syndicated exclusivity rules governing carriage of out-of-market network and syndicated programming. Less exciting, but still worth noting, the order would extend a prohibition of station drops during sweeps to DBS. Wheeler is also tackling joint sales agreements, which **ACA** and others have argued should count toward media ownership limits. When 15% or more of a station's advertising sales are generated by another station, that other station would have ownership interest, the order says. Existing JSAs will have 2 years to unwind or seek a waiver. Companies also can seek waivers for new JSAs, but they must show the arrangements are in the public interest. The proposed order also seeks comments on shared service agreements, where stations in the same market share resources, including employees or news helicopters, asking for definitions and what/if any disclosures of SSAs are necessary. However, draft STELA legislation released by **House Communications** subcmte chmn *Greg Walden* (R-OR) would prevent the FCC from making JSAs or SSAs attributable until the Commission addressed all the media ownership rules in a '10 and '14 quadrennial review (more below in "STELA").

STELA: Broadcasters taking a hit from the **FCC's** proposed order that would restrict JSAs can take comfort in a draft STELA bill that dropped the must-buy provision. As expected, Rep *Greg Walden* (D-OR), head of the House tech subcmte, released the bill that reauthorizes the Satellite Television Extension and Localism Act before the hearing next week. The original proposal, as we reported (*Cfax*, 3/3) would have allowed pay-TV providers to not include broadcast channels in basic tiers, but that has been nixed. Also good news for the broadcasters: The bill proposed

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the **FCC** may not modify its rules to “treat any shared service agreement, local news service agreement, local marketing agreement, or joint sales agreement...or any similar agreement between television broadcast stations in the same local market...until the Commission issues a single order” that address all the media ownership rules in the quadrennial review and closes the proceeding related to the 2010 quadrennial review. The FCC is planning on rolling the 2010 review into the upcoming 2014 review. There’s little surprise in the rest of the bill, which includes the elimination of the “sweeps” week prohibition on signal changes and the elimination of the set-top box integration ban. The bill has a ways to go as it will be examined by Commerce and Judiciary Committees from both chambers.

Regulatory Reax: Those supportive of retrans reform, including **ACA** and **Public Knowledge**, applauded FCC chmn *Tom Wheeler’s* move, while broadcasters and at least 1 commissioner condemned the plan. “This JSA proposal is a dagger aimed at the heart of small-town broadcasters. It’s a job-killer that would result in less news programming, less diversity, and more stations going dark,” said GOP commish *Ajit Pai*. **NAB** said it’s disappointed, but not surprised. “Two industries would benefit from today’s proposal: Big Cable companies who want less competition for advertising in local markets, and wireless companies who support punitive FCC actions that drive more TV stations into spectrum auctions,” said **NAB’s** *Gordon Smith*. **NCTA** and **Charter** joined the chorus of *Wheeler’s* supporters, with the MSO calling the proposal a “sensible way to ensure consumers are not held hostage by unfair collusion by broadcasters.” **ACA** has been constantly alerting the FCC to the scope of these type of arrangements. A ’12 **ACA** survey found 48 instances in 43 different markets of Big 4 broadcasters coordinating their retransmission consent negotiations, and it says the number has only grown since then. It’s repeatedly raised flags over broadcast acquisitions that involve these so-called sidecar arrangements. One such example is its objections to **Sinclair’s** \$1bn merger with **Allbritton**, a deal that **ACA** has said would create virtual duopolies in Charleston, SC, and Harrisburg, PA. “Chairman *Wheeler* has boldly decided to address immediately one of broadcasters’ most blatant assaults on communications and competition law. We are pleased the FCC will leave the retransmission consent rulemaking open to consider other necessary reforms at a later date,” **ACA** pres/CEO *Matt Polka* said. While a **STELA** draft bill seeks to prevent JSAs from being attributable until the media ownership rules are dealt with, ranking Commerce member *Henry Waxman* (D-CA) gave it his blessing. “While there are many instances where broadcasters sharing resources is appropriate, such sharing arrangements should not be used to circumvent the FCC’s ownership rules and undermine localism, competition and diversity over the public airwaves.”

Merger Mania: **DOJ’s** Antitrust Division said asst atty gen *Bill Baer* will be recused on the **Comcast-Time Warner Cable** merger review. The investigation will be overseen by principal deputy assistant atty gen *Renata B. Hesse* who will be the Acting Assistant Attorney General on the matter and deputy assistant atty gen *David Gelfand*. No details were given on why *Baer* is being recused, but he was a partner at **Arnold & Porter** before being sworn into office in Jan ’13. The law firm represented **GE** and **NBCU** in connection with the Comcast-NBCU transaction. -- It’s official. **Comcast** wrapped up its acquisition of ad platform **FreeWheel** in a deal reportedly worth more than \$350mln. The company, founded in 2007, counts **NBCU**, **Fox**, **Discovery**, **Viacom**, **DirecTV**, **DISH** and **Turner** among its customers. It provides ad insertion and management for on-demand programs and live streaming feeds. In addition to a commercial agreement, **DirecTV** took an equity position in **FreeWheel** last year. Co-CEOs *Doug Knopper* and *Jon Heller*, as well as CTO *Diane Yu*, signed multiyear agreements with Comcast to stay on in their current roles. It’s unclear how the deal might impact Comcast’s relationship with its other ad-insertion vendors, including **SeaChange**.

Investor Conference: Watch out cable. The broadband speed competition, particular in higher-speed tiers, is about to get more intense as telco **AT&T** looks to expand its fiber-based **GigaPower** beyond Austin, TX. According to AT&T chmn/CEO *Randall Stephenson*, market adoption of **GigaPower** has been “very, very encouraging.” So encouraging that the company is redirecting its infrastructure investment to fiber-to-the-home deployment and expanding the service to other communities (if it can get the terms and conditions like it had in Austin), *Stephenson* said during **Morgan Stanley’s** investor conference Thurs. He added in light of competition (e.g. **Google Fiber**), the company will be “a little more aggressive and assertive” in deploying fiber technology around the country. The theory applies to business service as well: Expanding fiber to business locations will be “a very aggressive deployment,” *Stephenson* said. “We are going to hit 1mln new business locations with fiber this year.” Meanwhile, OTT video isn’t “evolving quite as quickly as a lot of people anticipated, but I do think it’s going to be significant in the industry,” he said. Ensuring digital rights in content negotiations and facilitating OTT services like **Netflix**

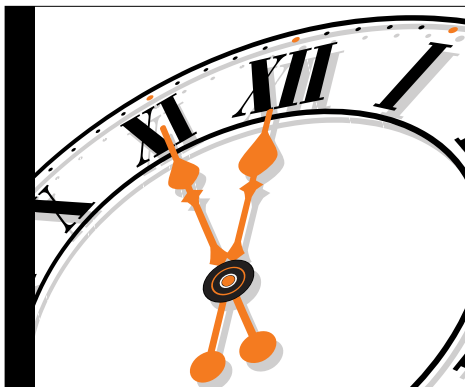
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is a high priority for the telco, he said. Like cable, AT&T is eyeing more shares of the smart home market. The launch of Digital Life, the telco's smart home product, in 63 markets, has been "eye opening," he said. And the telco could monetize the service outside the US as intl companies are requesting to license the service in their countries.

Synacor: Ron Frankel, who has been CEO of Synacor since '01, is stepping down. The news comes after a particularly weak 4Q. Frankel will remain on the board and continue as an adviser as the company searches for a successor. In addition, a spokeswoman confirmed the company is eliminating 12 positions this week, calling it a "normal course of business and part of ongoing strategic decisions." The company now has 350 full-time employees and about 15 contractors. During 4Q, partly due to changes in the Windows 8 operating system that affect the effectiveness of online ads Synacor develops for its service provider customers, net income dropped to \$0.2m from \$0.8m in the year-ago quarter, while rev decreased to \$29.4m from \$32.2m. Synacor stocks were down more than 8% late Thurs. The good news is Synacor, which counts major MSOs such as Comcast as customers, renewed its agreement with Google for 3 more years on same revenue-sharing terms. Looking forward, Synacor expects revenue for 1Q to be \$24m-\$25m. For the full year, revenue is expected to be in the range of \$100m to \$105m.

CableFAX Daily Stockwatch

Company	03/06 Close	1-Day Ch	Company	03/06 Close	1-Day Ch
BROADCASTERS/DBS/MMDS			GOOGLE: 1219.61 1.35		
21ST CENTURY FOX:	34.34	0.40	HARMONIC:	6.66	(0.06)
DIRECTV:	79.99	1.89	INTEL:	24.63	0.13
DISH:	62.15	1.67	JDSU:	13.66	(0.25)
DISNEY:	83.34	0.66	LEVEL 3:	37.49	0.53
GE:	26.22	0.29	MICROSOFT:	38.15	0.04
MSOS			NIELSEN:	45.88	(0.37)
CABLEVISION:	18.09	0.10	RENTRAK:	64.77	(1.03)
CHARTER:	126.64	(0.77)	SEACHANGE:	10.41	(0.27)
COMCAST:	52.11	0.22	SONY:	17.86	0.38
COMCAST SPCL:	50.70	0.34	SPRINT NEXTEL:	8.88	(0.24)
GCI:	10.89	(0.03)	TIVO:	13.32	(0.11)
LIBERTY GLOBAL:	44.16	0.88	UNIVERSAL ELEC:	43.42	(0.45)
LIBERTY INT:	29.31	0.07	VONAGE:	4.52	(0.07)
SHAW COMM:	23.67	0.09	YAHOO:	39.66	0.16
TIME WARNER CABLE:	141.74	0.64	TELCOS		
PROGRAMMING			AT&T:	32.34	0.21
AMC NETWORKS:	77.40	0.83	VERIZON:	47.46	0.08
CBS:	67.55	0.17	MARKET INDICES		
CROWN:	3.72	0.13	DOW:	16421.89	61.71
DISCOVERY:	85.97	1.25	NASDAQ:	4352.12	(5.85)
GRUPO TELEVISA:	31.85	0.41	S&P 500:	1877.03	3.22
HSN:	57.86	0.40			
INTERACTIVE CORP:	77.40	(2.46)			
LIONSGATE:	31.80	(0.12)			
MADISON SQUARE GARDEN:	57.99	1.70			
SCRIPPS INT:	81.81	0.23			
STARZ:	33.18	0.21			
TIME WARNER:	68.93	0.45			
VALUEVISION:	6.01	0.26			
VIACOM:	88.21	1.00			
WWE:	29.80	2.70			
TECHNOLOGY					
ADVANTAGE:	3.10	0.00			
ALCATEL LUCENT:	4.21	(0.02)			
AMDOCS:	44.95	0.17			
AMPHENOL:	90.25	0.95			
AOL:	44.55	(0.18)			
APPLE:	530.75	(1.61)			
ARRIS GROUP:	29.13	(0.04)			
AVID TECH:	6.77	0.12			
BLNDER TONGUE:	0.96	-0.00			
BROADCOM:	30.33	0.10			
CISCO:	21.82	(0.05)			
CONCURRENT:	8.58	UNCH			
CONVERGYS:	20.62	0.09			
CSG SYSTEMS:	28.23	0.01			
ECHOSTAR:	50.37	0.53			



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PROGRAMMER'S PAGE

Houston... We're Live!

Nat Geo Channel has never shied away from a challenge, and that's certainly the case when it comes to the unprecedented collaboration with **NASA** known as "Live From Space." The one-time TV event airing Mar 14 will involve a live feed from the International Space Station and shine a global spotlight on NASA just as Nat Geo's promoting its other space odyssey, the much-anticipated reboot of the late *Carl Sagan's* "Cosmos," which on Sun (Mar 9) premieres across hundreds of Nat Geo and **Fox**-branded nets in 125 countries. Along for the Live From Space ride will be astronauts *Rick Mastracchio* and *Koichi Wakata* from the ISS, while astronaut *Mike Massimino* (who you may remember as the guy who fixed the Hubble Telescope) contributes live from Houston. Like *Cosmos*, Live From Space will have enormous reach, airing on Nat Geo Channel in 170 countries, and on Channel 4 in the UK. "Every bit of the technical apparatus we'll use, from the mobile truck to the two-way radios, have to be integrated into the NASA system and deemed secure," says exec producer *Al Berman*. "This is not a 'set up next to the venue and broadcast' operation." Berman notes that anything that could go wrong, well... just might, including losing the ISS feed. "We have backups for problems ranging from minor, for which we have taped packages; to major, for which we have an alternate broadcast site at NASA with plenty of tape, already shot by the astronauts, to fill the entire broadcast," he says. Of course, whether it's Live From Space or *Cosmos*, it's about inspiration. As *Sagan's* widow and *Cosmos* producer *Ann Druyan* told a group of reporters gathered at a recent Nat Geo press event, "the dreams of a generation or two before have kind of been downsized... It's a lot more about shopping lately than it is about going to the stars." Let's hope that Live From Space, *Cosmos* and other such efforts will change that. And fast. — *Michael Grebb* [For the full Q&A with *Al Berman*, go to www.cablefax.com]

Reviews: "Portlandia," Thurs, 10p, **IFC**. In its 4th season, sketch-comedy "Portlandia" finally is being recognized as a quirky, yet hilarious pleasure. Coincidentally, it's also hitting its stride creatively, whacking at things viewers will identify with whether or not they've been to Portland. This week's ep begins by beating down a vegetable (you'll see), eventually widening to a full comedic cornucopia. Later, social media-mania gets a proper spanking. Kudos to the perruquier and costumer for enhancing co-conspirators *Fred Armisen* and *Carrie Brownstein's* characters with appropriately outrageous wigs and frocks. -- "Death Row Stories," premiere, Sun, 9p, **CNN**. Yes, this new CNN strand has star power, with Oscar winners *Robert Redford* (exec prod), *Alex Gibney* (director) and *Susan Sarandon* narrating, but better the riveting death row saga of *Edward Lee Elmore* and his feisty advocate/law intern *Diana Holt* is presented soberly here and not as a Hollywood film—nobody would have believed it. The larger question: Will the powerful stories in this well-made series jolt the US justice system to change? -- "Trip to the Bountiful," Sat, 8p, **Lifetime**. There's no dialogue in the first 4 minutes of *Horton Foote's* 1953 teleplay. Yet the opening's attention to detail—the costumes, music, sets—reveals much about this wonderful piece. And there's *Cicely Tyson*, 80 years young and marvelous. — *Seth Arenstein*

Basic Cable Rankings (2/24/14-3/02/14)			
Mon-Sun Prime			
1	USA	1.6	1600
2	HIST	1.5	1432
3	FOXN	1.4	1371
3	DSNY	1.4	1360
5	TBSC	1.2	1203
5	TNT	1.2	1168
5	AMC	1.2	1164
5	FX	1.2	1139
9	HGTV	1.1	1050
9	ESPN	1.1	1016
11	A&E	1.0	977
11	NAN	1.0	959
11	DSE	1.0	71
14	ADSM	0.9	918
14	DISC	0.9	851
14	BET	0.9	832
17	FAM	0.8	776
17	FOOD	0.8	745
17	SYFY	0.8	736
17	ID	0.8	709
21	LIFE	0.7	728
21	TLC	0.7	687
21	SPK	0.7	670
21	TVLD	0.7	657
21	MTV	0.7	635
26	BRAV	0.6	599
26	CMDY	0.6	556
26	MSNB	0.6	555
26	HALL	0.6	542
26	DSJR	0.6	356
31	APL	0.5	474
31	OWN	0.5	447
31	TRU	0.5	441
31	LMN	0.5	405
31	NGC	0.5	382
31	H2	0.5	338
37	VH1	0.4	399
37	EN	0.4	360
37	TRAV	0.4	355
37	CNN	0.4	353
37	WE	0.4	314
37	OXYG	0.4	287
37	NKJR	0.4	272
37	HMC	0.4	240
37	INSP	0.4	227
46	ESP2	0.3	268

*Nielsen data supplied by ABC/Disney

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