

# CableFAX Daily™

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What the Industry Reads First

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## Game Continued: GSN, Cablevision FCC Complaint on Hold Until July

An FCC ALJ hearing over GSN's carriage complaint against Cablevision was supposed to get underway this week, but was postponed in the hopes the courts might shed a little more light on the issues at hand. The FCC chief admin law judge held an informal call with the parties last week asking if the hearing should be moved until mid-July so the participants could possibly benefit from the guidance of a decision in the **Comcast-Tennis Channel** case pending before the DC Court of Appeals. CVC and GSN agreed, and the hearing slated to start on Apr 2 has been reset for July 16. GSN filed the complaint in Oct 2011 after Cablevision moved the channel to its Sports & Entertainment tier. GSN argues it should be offered in a similar fashion to how CVC carried nets it previously owned, like **WE tv** and the now defunct **Wedding Central**. Last May, the FCC's Media Bureau designated an ALJ hearing, saying the net had put forth sufficient circumstantial evidence of discrimination, but it did not actually consider the merits of GSN's case. That is the whole reason for the ALJ hearing. As for the Comcast case, the court heard oral arguments in Feb in the MSO's challenge of the FCC's decision. The FCC upheld an ALJ finding that Comcast discriminated against Tennis Channel by relegating it to a sports tier while its own channels, **Golf** and **Versus** (now **NBC Sports Net**) received broader distribution. There is no guarantee that a decision will be issued by July, but it's likely a ruling will come by June. Observers believe Comcast has a good shot at a favorable ruling given the pushback the FCC received from the 3-judge panel during arguments. The Comcast-Tennis case marked the 1st time the FCC has found a cable operator violated program carriage rules. Such hearings are relatively rare. **NFL Net** and **MASN** reached settlements with Comcast in their complaints before an ALJ ruling was issued. **WealthTV** lost its carriage complaint against **Comcast, Bright House, Cox** and **Time Warner Cable**.

**In the States:** **Time Warner Cable** has submitted a bid to play a role in the NC Next Generation Networks project, a regional initiative to support educational and economic development by accelerating the deployment of ultra-high-speed Internet access. The regional partnership is composed of Cary, Chapel Hill, Carrboro, Durham, Raleigh and Winston-Salem, NC with the support of Duke, NC State, UNC Chapel Hill, Wake Forest along with their associated Chambers of Commerce. Time Warner Cable Business Class is the largest school data provider in NC, serving 25

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school systems across the state. With TWCBC's education investment, 16 of those systems and more than 717 schools utilize superfast speeds up to 1 Gigabit today, according to the MSO.

**Research:** Content owners, including **HBO, Disney/ABC, and Fox** are becoming big customers for video encoder and transcoders, according to **ABI Research**. Content owners have always purchased some video encoders for primary distribution but their investment is increasingly in multi-format transcoders that support direct-to-consumer distribution, the research firm said. "Content owners will grow from 11% of the total encoder and transcoder market in 2012 to 17% in 2017, having already passed the importance of telco operators for use in traditional IPTV platforms," said *Sam Rosen*, practice director. "Their role in distribution stems from both authenticated access offered as part of a retransmission agreement with a classical pay TV operator, but will also increasingly include advertising supported free-to-wire services and some standalone content-owner bundles," Rosen said.

**Masters:** **CBSSports.com**, in conjunction with **Masters.com**, will bring back live full day video coverage of the golf tourney from Augusta National Golf Club. With 4 live channels of golf, Masters Live will kick off Mon run through Sun, providing more than 90 hours of video. **DirecTV** will once again feature its Masters Mosaic Channel with live HD coverage from CBS Sports and **ESPN**. The interactive app also allows viewers to display the leader board at the touch of a button and directly access hole-by-hole stats for each player in field.

**Carriage:** **Outdoor Channel** launched in HD for **Charter** subs in Weatherford and Cleburne, TX. Subs will have access starting in early April, followed by a gradual rollout in Fort Worth, Highland Park, Azle, Granbury and University Park through June. -- **NCTC** members have distribution rights to **eScapes** under a new master agreement. The independent net produces family-friendly content that blends HD video from the most amazing places on earth with relaxing music to enhance viewing experience.

**Online:** **Discovery Comm** introduced "Animal Planet LIVE," HD channels available on APL.TV and connected devices featuring live animal cams. Animal Planet has a Penguin Cam and Kitten Cam, but also is going the non-traditional route with a Cockroach Cam and Ant Cam. More cameras are planned in the coming months. The feeds are available on select **Samsung** Smart TVs starting Thurs and will be coming to **Roku** and Xbox Live in the coming months. Video ads run after a minute and then periodically after that on all the cams except the Beluga Cam and Sea Nettle Cam, which are from **explore.org**. Animal Planet LIVE is in partnership with explore.org as well as **Audubon Nature Institute, National Aquarium, South Mountain Creamery** and the **Washington Animal Resuce League**.

**Upfronts:** Among the highlights from **Weather Company's** upfront is a partnership with **Twitter** to make it easy for marketers to extend TV and digital content opportunities onto the social media platform. The company is also working with Twitter to enable video. Meanwhile, the company is getting a face lift. Over the next year, "we are completely changing the look of our network," said *David Clark*, pres, the **Weather Channel** network. The company will unite all of its looks and graphic packages so that "when you're on The Weather Channel, or even when you're just walking by, you'll know it's us because of the distinct look and feel," Clark said. Another change is that Weather will soon be able to present severe weather coverage in affected markets only, allowing viewers in unaffected markets to continue viewing regularly scheduled programming. In addition, the net will have a complete refresh of the net's "Local on the 8s" localized forecasts that appear every 10 minutes. The new forecasts will feature on-camera meteorologists with more locally relevant forecasts. On the programming front, the company ordered 5 new series: "Secrets of the Earth," "Weather that Changed the World," "Storm Warriors," "Strangest Weather on Earth," and "Freaks of Nature." It also ordered 3 Web series, "Brink," "The Bucket List," and "The Explorers," all working titles.

**Programming:** **TVGN** acquired drama "The Young and the Restless" from **Sony Pictures Television**, the 1st programming announcement as part of the new **CBS/Lionsgate** partnership. Starting this summer, the franchise will move from **Soapnet** to TVGN, keeping the 7pm time slot. -- **Animal Planet** renewed "Finding Bigfoot" for a 12-ep third season to debut this fall. -- **TLC** is spinning off "Breaking Amish" with the original cast making a fresh start in Sarasota, FL, in "Breaking Amish: A Brave New World." It also selected a new cast who will explore the world beyond the Amish community for a 2nd season of "Breaking Amish."

**Social Circle:** To build anticipation for **WrestleMania 29** on Sun, **WWE** has ramped up social media initiatives. CEO *Vince*

# BUSINESS & FINANCE

McMahon got a **Twitter** account (@VinceMcMahon), streaming is in place for all **Apple, Android, Windows 8** devices, Xbox consoles and Kindle Fire tablets and its integrating **Pinterest, Tumblr** and **Pheed** into social media coverage for the 1st time.

**People:** NBCU's *Stacy Green* was named svp, HR for **AETN**. -- **Veria Living**, which has seen US distribution increase by nearly 50% in the past 12 months through deals with **Cablevision, RCN, GCI** and others, promoted *Raymond Donahue* to chief revenue officer. It also hired *Jennifer Liang* as head of global content sales and strategy. -- *Jack Daley* was named vp, consumer marketing for **Nickelodeon Group**.

**On the Circuit:** **WICT** announced the 180 designees of its '13 Rising Leaders Program. The top candidates were designated based on an established selection process led by 61 cable professionals, all alumnae of the program. A grant from the **Walter Kaitz Foundation** will support 8 full scholarships in this year's program for designees from smaller companies and industry nonprofits. **Comcast/NBCU** is the Silver Sponsor and **Suddenlink** is the Bronze Sponsor.

**Business/Finance:** **DISH** plans to raise \$2.3bln in debt to fund its spectrum purchases. The debt offering includes \$1.1bln senior notes due '20 and \$1.2bln senior notes due '18. The offering is expected to close on Apr 5.

## CableFAX Daily Stockwatch

Company	4/3 Close	1-Day Ch	Company	4/3 Close	1-Day Ch
<b>BROADCASTERS/DBS/MMDS</b>			<b>CONVERGYS:</b> ..... 16.46 .....(0.22)		
DIRECTV:	56.09	(0.39)	CSG SYSTEMS:	20.51	(0.25)
DISH:	36.67	(1.4)	ECHOSTAR:	37.90	(1.05)
DISNEY:	57.25	(0.21)	GOOGLE:	806.20	(6.84)
GE:	23.00	(0.34)	HARMONIC:	5.59	0.02
NEWS CORP:	30.99	(0.3)	INTEL:	21.05	(0.41)
<b>MSOS</b>			JDSU:	12.99	(0.25)
CABLEVISION:	14.30	(0.35)	LEVEL 3:	19.34	(0.47)
CHARTER:	102.28	(1.52)	MICROSOFT:	28.56	(0.24)
COMCAST:	41.82	(0.48)	RENTRAK:	20.91	(0.15)
COMCAST SPCL:	39.50	(0.38)	SEACHANGE:	11.28	(0.39)
GCI:	8.77	(0.12)	SONY:	16.43	(0.57)
LIBERTY GLOBAL:	74.42	(0.89)	SPRINT NEXTEL:	6.16	(0.07)
LIBERTY INT:	20.64	(0.2)	TIVO:	11.76	(0.42)
SHAW COMM:	24.07	(0.67)	UNIVERSAL ELEC:	23.18	(0.6)
TIME WARNER CABLE:	96.62	(0.33)	VONAGE:	2.83	0.03
VIRGIN MEDIA:	49.51	(0.3)	YAHOO:	23.38	(0.4)
WASH POST:	436.56	(4.31)	<b>TELCOS</b>		
<b>PROGRAMMING</b>			AT&T:	37.28	(0.29)
AMC NETWORKS:	60.46	(1.21)	VERIZON:	48.99	(0.51)
CBS:	44.84	(0.67)	<b>MARKET INDICES</b>		
CROWN:	1.99	(0.04)	DOW:	14550.35	(111.66)
DISCOVERY:	78.04	(0.65)	NASDAQ:	3218.60	(36.26)
GRUPO TELEVISIA:	26.82	(0.54)	S&P 500:	1553.69	(16.56)
HSN:	52.21	(1.98)			
INTERACTIVE CORP:	44.72	(0.38)			
LIONSGATE:	22.68	(0.43)			
OUTDOOR:	8.91	0.01			
SCRIPPS INT:	64.17	0.20			
STARZ:	20.55	(0.54)			
TIME WARNER:	58.10	0.52			
VALUEVISION:	3.31	(0.06)			
VIACOM:	62.90	(0.16)			
WWE:	8.85	0.08			
<b>TECHNOLOGY</b>					
ADVANTAGE:	2.30	(0.01)			
ALCATEL LUCENT:	1.28	(0.03)			
AMDOCS:	35.40	(0.54)			
AMPHENOL:	73.32	(0.39)			
AOL:	38.29	0.20			
APPLE:	431.99	2.20			
ARRIS GROUP:	16.51	(0.29)			
AVID TECH:	6.24	(0.6)			
BLNDER TONGUE:	1.10	(0.08)			
BROADCOM:	33.24	(0.79)			
CISCO:	21.20	(0.02)			
CLEARWIRE:	3.28	0.03			
CONCURRENT:	7.07	(0.68)			



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## Think about that for a minute...

### A Deep Breath of Aereo

Commentary by Steve Effros

OK, everybody has to take a deep breath, and calm down. But don't breathe anywhere near the Second Circuit Court of Appeals ruling in the Aereo case—the “second hand smoke” could get you highly confused (pun intended.)

That's certainly the case with almost all the consumer reporters, bloggers and stock analysts who have become clearly intoxicated over the decision that the



broadcast networks did not deserve a preliminary injunction against Aereo in their ongoing challenge over whether Aereo is violating the copyright laws. The headlines and “instant analysis” has been amazing. It's the end of broadcasting, the end of cable, and a major change in the way everyone

is going to watch broadcast television according to all these “experts.”

Really? Not even close. First, let's get something clear; the court was asked to overturn a lower court ruling that there need not be an injunction against Aereo doing business while the main case against the company winds its way through the courts. Notice the underlying message there; the main case has not been heard yet! This is just a question of whether an “injunction” is required. It isn't, in part because, as almost everyone agrees, Aereo is not causing any measurable “harm” to anyone at this time, so the case can go forward without an injunction. The detailed analysis of the appeals court as to the implications and intentions of the copyright law and its interplay with the Cablevision DVR case which was also decided and therefore “controlling” in the Second Circuit (and in that Circuit only) depended on several critical assumptions that may or may not prove true in a full-blown trial. Not the least of which, the court made clear it was not ruling on the question of what

constituted an individual “antenna” and even noted, in a footnote, that maybe just individual recording devices, absent individualized antennas might be sufficient to avoid the notion of a “public performance” under their reading of the copyright law!

Now whether that is right or wrong it should be noted that what it could mean, if adopted by all courts (including the Supreme) is that this same logic could apply to all cable systems! That would be big news, and the broadcasters could then be very worried about their retransmission consent fees which are valued at around \$2 billion these days. But I wouldn't bet on it! What we are really seeing is a total replay of the old Fortnightly and Teleprompter cases where the Court says the Congress needs to rewrite the laws, and Congress says the Courts should stop trying to play games with intentionally broad language showing what the “intent” of the law is. If you want to see a clear, simple analysis of this, read Judge Denny Chin's introduction to his dissent in this case. He nails it in four pages.

Bottom line; I think Barry Diller is bored and is playing a long-term game with the broadcasters and willing to pay the legal fees. By the time it's over, many years from now in the Supreme Court, legislation will have either already been adopted or be ready to go that keeps the relative relationships of the players intact. Either we'll all continue to pay retrans fees or we won't, including Aereo. Notice, please, this current case is only about copyright laws and definitions; the case against Aereo regarding “retransmission consent” requirements has not yet even gotten to court! It will. Keep breathing, and remember to inhale.

*Steve*

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

*(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry)*

CableFAX

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